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PHILIP MORRIS USA INC.
(f/k/a Philip Morris Incorporated)

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Leslie J. Grisham,	)	Case No. CV-02-7930 SVW (RCx)
Plaintiff,)	
v.	)	APPENDIX A TO DEFENDANTS'
Philip Morris, Incorporated, et al.,	)	MEMORANDUM IN RESPONSE TO
Defendants.	)	PLAINTIFF'S SUPPLEMENTAL
	)	BRIEF ON COLLATERAL
	)	ESTOPPEL/ISSUE PRECLUSION IN
	)	RELATION TO MOTION TO STAY
	)	Date: September 14, 2009
	)	Time: 1:30 p.m.
	)	Judge: The Honorable Stephen V. Wilson
)	
	)	<u>Filed Concurrently Herewith:</u>
	)	Memorandum in Response, Declaration of
	)	Patrick J. Gregory, Notice of Manual Filing
)	
)	

APPENDIX A¹

Case Name and Result	Adverse Health Effects of Smoking	Addiction and Nicotine Manipulation	Light and Low Tar Cigarettes	Youth Marketing	Concealment and Suppression of Research and Documents	Environmental Tobacco Smoke
<p><i>Blue Cross and Blue Shield v. Philip Morris Inc.</i>, No. 98cv3287 (E.D.N.Y.)</p> <p>Disposition:</p> <p>Defense verdict for PM USA and B & W on common law fraud and RICO claims; plaintiff's verdict on state law claims under N.Y. Business Law § 349 (verdict - 6/4/01).</p> <p>On appeal, plaintiff's verdict was reversed in its entirety in <i>Empire Healthchoice, Inc. v. Philip Morris USA Inc.</i>, 393 F.3d 312 (2d Cir. 2004).</p> <p>Excerpts from the record in <i>Blue Cross</i> that are cited in this chart are attached as Exhibit 1.</p>	<p>Defendants have been and are engaged in a continuous conspiracy to deceive Congress, regulators, the public [and others], regarding facts material to reaching an informed understanding about the health consequences of smoking . . .</p> <p>Fifth Amended Complaint ("FAC") ¶ 77; <i>see also id.</i> ¶¶ 7, 75-79, 98, 102, 109-14, 116-17, 119-22, 137, 139-41, 143-46, 152-54, 163, 183, 185, 192-93, 195-97, 202, 204, 240-43, 245, 257-58, 262, 280, 293-95, 322, 329, 338-39, 349-50, 356, 363, 366, 383.</p> <p>We have brought this case because for years, since the 1950s, the Tobacco Industry has</p>	<p>Repeatedly, [the tobacco companies] have made and continue to make knowingly false pronouncements -- and have given knowingly false sworn testimony -- to the effect that they were in possession and had knowledge of no evidence that nicotine is addictive . . .</p> <p>FAC ¶ 7; <i>see also id.</i> ¶¶ 9, 64, 75-76, 78-79, 120, 123-24, 156-59, 161, 175-80, 220, 224-26, 247-49, 278, 280-81, 293-95, 324, 339, 363, 366, 383.</p> <p>They have also said that cigarettes -- or, more properly, the nicotine in the tobacco -- is not addictive.</p> <p>3/26/01 Tr. at 369; <i>see</i></p>	<p>Despite their ability to produce less harmful cigarettes, Defendants did not market such products, except in limited test markets, which they later abandoned. Instead, Defendants fraudulently promoted filtered and low-tar cigarettes as safer or healthier, which was untrue.</p> <p>FAC ¶ 164; <i>see also id.</i> ¶¶ 164, 172-75, 181, 198.</p> <p>They promoted low-tar, low-nicotine cigarettes. They advertised those low-tar, low-nicotine cigarettes as having tar and nicotine level milligrams -- it's on the package -- as measured by the</p>	<p>The Tobacco Companies . . . sought to replace nicotine addicts who died, and they did so by marketing their products to children, knowing that if a child does not smoke by age 18, he or she is unlikely to become a nicotine addict -- and steady cigarette customer.</p> <p>FAC ¶ 228; <i>see also id.</i> ¶¶ 230, 232-35, 281, 293-95.</p> <p>As I said before, eighty-eight percent of all smokers begin to smoke -- and the percentage may be slightly higher than that -- they begin to smoke before the age of eighteen. If you could get through the</p>	<p>Defendants fraudulently concealed [their] course of conduct by, inter alia, concealing documents and falsely claiming documents tending to reveal their conspiracy to be covered by the attorney-client privilege.</p> <p>FAC ¶ 7; <i>see also id.</i> ¶¶ 78, 102, 120, 153-63, 238-46, 254-58,</p> <p>You will hear testimony from some [witnesses] who were a number of former researchers and scientists at these tobacco companies. These are the people who are the really brave ones because they have come forward. They have come forward just like</p>	

¹ Those decisions involving federal or state law RICO claims appear first in this chart. Thereafter, the decisions identified in Appendix A are arranged in reverse chronological order.

Case Name and Result	Adverse Health Effects of Smoking	Addiction and Nicotine Manipulation	Light and Low Tar Cigarettes	Youth Marketing	Concealment and Suppression of Research and Documents	Environmental Tobacco Smoke
	<p>lied to and misled the American public. They have repeatedly told the American public, number one, smoking does not cause disease, or that the link between smoking and disease hasn't been proven. Another way of saying that is that they have denied causation.</p> <p>3/26/01 Tr. at 369; <i>see also id.</i> at 372-73, 379, 420-27, 462.</p> <p>Empire's claim is that the tobacco companies lied for decades about the health effects of smoking. They knew it full well. They knew more than anyone. They kept their information to themselves. Or they knew at least as much as anyone.</p> <p>5/24/01 Tr. at 7735; <i>see also id.</i> at 7740, 7751-54, 7761, 7763, 7765, 7770, 7779, 7781-82, 7785-86,</p>	<p><i>also id.</i> at 372-73, 380, 389, 427-29, 448.</p> <p>[Y]ou know the role addiction plays in this, the really insidious role addiction plays in this, especially these tobacco companies knew about addiction and lied about the addiction, and people smoked. They knew if they got them to start smoking, they had a customer for years and years and years, no matter what warnings were out there . . .</p> <p>5/24/01 Tr. at 7756; <i>see also id.</i> at 7770-71, 7773, 7776, 7779, 7786, 7830-31, 7851.</p>	<p>Federal Trade Commission smoking machine. And they let the American public know and believe these cigarettes were safer, these were better for you . . .</p> <p>3/26/01 Tr. at 374; <i>see also id.</i> at 375-78, 382, 440-45.</p> <p>This whole issue of low-tar cigarettes and compensation [] . . . Did you know that these low-tar cigarettes deliver no benefit, or even if they have it right, a tiny benefit, but nothing like, nothing like the benefit that people expect to be given away, the way they advertise, their claims for them, calling them ultra, ultra light, picturing them with health people in their ads, giving those low tar numbers. Did you recognize at the time that people</p>	<p>age of eighteen, maybe you will not smoke. That's what the statistics showed. We will show you documents from defendants' own files which they prove that the people were young are naive, and they lack the maturity of judgment to perceive accurately and understand these risks. Once these adolescents became addicted, they had them.</p> <p>3/26/01 Tr. at 382; <i>see also id.</i> at 433-36.</p> <p>We know from personal experience if we have kids they think that. They don't have the same sound judgment as adults and that's when they start smoking and then as these defendants knew full well, they become addicted and it's a whole other ball game as to what they know and what they realized</p>	<p>Doctor Farone has. They have stood up and told their story. They have said that the tobacco company suppressed scientific research, destroyed it, sent it abroad, sent it over to facilities in Germany, in England.</p> <p>3/26/01 Tr. at 447; <i>see also id.</i> at 425, 432.</p> <p>They wiggled around there and called witnesses to say, well, the documents weren't really destroyed, but you can see the memos that say destroy the documents. Where are the people, the ones writing those memos and destroying the documents? They called in other people to say, well, it really didn't happen. The people who actually did it on those memos, where are they? So they destroyed documents.</p> <p>5/24/01 Tr. at 7764-65;</p>	

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	7795-97, 7803-04, 7808-29, 7856.		compensated because they need the nicotine and they basically get the same amount of tar and have the same amount of risk? They knew it. 5/24/01 Tr. at 7742-43; <i>see also id.</i> at 7762-63, 7791, 7832-36.	about the risk of smoking. 5/24/01 Tr. at 7771.	<i>see also id.</i> at 7783, 7791.	
<i>Iron Workers Local Union v. Philip Morris Inc., No. 1:97cv1422 (N.D. Ohio)</i> Disposition: Defense verdict for PM USA and B & W on plaintiffs' claims of RICO Act violations, intentional breach of special duty, civil conspiracy, and state law corrupt activities (verdict - 3/18/99). Excerpts from the record in <i>Iron Workers</i> that are cited in this chart are attached as Exhibit 2.	For years, and continuing to date, the Defendant cigarette manufacturers and trade associations have engaged in a conspiracy to mislead, deceive and confuse the Plaintiff Health and Welfare Funds . . . regarding the overwhelming evidence that cigarette smoking causes fatal disease, and that the nicotine in cigarettes is a powerfully addictive substance. First Amended Class Action Complaint ("FACAC") ¶ 1. Defendants'	The cigarette manufacturers have known for decades, on the basis of their own long-concealed research, that nicotine is addictive . . . Yet publicly the cigarette manufacturers have denied and continue to deny that nicotine is addictive . . . At the same time, at least certain Defendants have developed sophisticated techniques to manipulate the nicotine delivery of cigarettes so as to create and sustain addiction in smokers. Yet publicly the cigarette	The cigarette industry's manipulation of nicotine is particularly deceptive in its marketing of "light" or low-tar and low-nicotine cigarettes to retain the health conscious segment of the smoking market. Recent studies demonstrate that cigarettes advertised as low tar and low nicotine have higher concentrations of nicotine, by weight, than high yield cigarettes. Nevertheless, the cigarette manufacturers have successfully identified	As part of its overall scheme, the Industry intentionally replaces hundreds of thousands of tobacco users who die each year by unfairly and illegally targeting marketing and promotional efforts at minors. FACAC ¶ 226, <i>see also id.</i> ¶¶ 230-39, 262, 274. The target audience is children. And we are going to show that. And we are going to show that they target children. 2/22/99 Tr. at 167-68; <i>see also id.</i> at 159,	Although the cigarette manufacturers promised the public that they would lead the effort to discover and disclose the truth about smoking and health, they have, in fact, systematically suppressed and concealed material information and waged an aggressive campaign of disinformation about the health consequences of cigarette smoking. The cigarette manufacturers have taken these actions, even though they have known for years, based on their own secret	

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	<p>conspiracy consists of two strategies: first, they agreed to falsely represent [to] Plaintiffs, their participants and beneficiaries and other governmental entities which bear responsibility for the public health that questions about smoking and health would be answered by a new unbiased, and trustworthy source; second, they counted on the resulting public trust to misrepresent, suppress and confuse the facts about the health dangers of smoking, including nicotine addiction. Concealment of their actual knowledge was, therefore, critical to the conspiracy.</p> <p><i>Id.</i> ¶ 70.</p> <p>Despite overwhelming scientific evidence and the confirmation of this evidence by their own internal research,</p>	<p>manufacturers have denied and continue to deny that nicotine is addictive and that they manipulate the nicotine delivery of cigarettes.</p> <p>FACAC ¶ 2.</p> <p>The cigarette manufacturers continue to deny that nicotine is addictive and instead use various misleading euphemisms to describe the role of nicotine, such as “satisfaction,” “strength,” “rich aroma,” and “pleasure.” Nonetheless, there is now widespread agreement in the medical and scientific communities that the primary, if not sole, function of nicotine is to provide a pharmacological effect on the smoker that leads to addiction.</p>	<p>“light” cigarettes to consumers as a reduced tar and reduced nicotine product. The cigarette manufacturers have accomplished this deception through several strategies.</p> <p>FACAC ¶ 208.</p> <p>[C]igarette manufacturers designed their “light” products so that advertised tar and nicotine levels understate the amounts of tar and nicotine actually ingested by human smokers. Such design features include a technique called filter ventilation in which nearly invisible holes are drilled in the filter paper, or the filter paper is made more porous.</p> <p>Predictably, many smokers of advertised low tar and nicotine cigarettes block the tiny, laser generated</p>	<p>172, 187-96.</p> <p>And finally, I said they targeted children, and you can see they all did that.</p> <p>3/16/99 Tr. at 4541; <i>see also id.</i> at 4556-57, 4584, 4591-03.</p>	<p>research, that their products eventually injure or kill the consumer when used exactly as intended.</p> <p>FACAC ¶ 1.</p> <p>Defendants’ deception therefore included concealment of their own negative health and addiction research results from Plaintiffs, their participants and beneficiaries and governmental entities which bear responsibility for the public health. Defendants have still not released those research results. However, the internal research that has become available directly contradicts what the Defendants have told the public for decades.</p> <p><i>Id.</i> ¶ 73.</p> <p>Defendants’ strategy depended for its</p>	

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	<p>the cigarette manufacturers and their trade associations continue to this day to repeat over and over, in a unified stance, that there is no causal connection between cigarette smoking and adverse health effects. These representations are misleading, deceptive and untrue. They rest at the heart of the industry's ongoing conspiracy to market and profit from a product it knows is deadly.</p> <p><i>Id.</i> ¶ 162; <i>see also id.</i> ¶¶ 41-42, 71, 78, 81, 101, 103-05, 107-38, 143-46, 149, 151-61, 166, 169-70, 172, 175-76, 178, 246-48, 251-52, 262, 274, 307, 334, 338, 347, 352, 375, 407.</p> <p>You will see throughout the years they constantly called into question -- they constantly called into</p>	<p><i>Id.</i> ¶ 65.</p> <p>The cigarette industry has also made every effort to conceal and deny that nicotine is a powerfully addictive substance. While carefully studying its addictive character and acting upon that knowledge to maintain cigarette sales, each of the cigarette manufacturers has denied that nicotine is addictive.</p> <p><i>Id.</i> ¶ 163.</p> <p>Cigarette manufacturers have known since at least the early 1960s of the addictive properties of the nicotine contained in the cigarettes they manufacture and sell.</p> <p><i>Id.</i> ¶ 165; <i>see also id.</i> ¶¶ 41-42, 63, 70-76, 78, 124, 163-66, 169-72, 178, 182, 189, 191-204, 206-07, 212-20, 218-20, 246, 250-52,</p>	<p>perforations in ventilated filters with their finger or lips, thereby resulting in greater tar and nicotine yields to those smokers than those measured by the FTC smoking machine.</p> <p><i>Id.</i> ¶ 209; <i>see also id.</i> ¶¶ 93, 210-16.</p>		<p>success on joint and concerted action by the cigarette manufacturers and their trade associations. Upon information and belief, each of these Defendants agreed not to reveal to the public the true nature of the TIRC, and later CTR, and not to disclose adverse information on smoking, addiction and health, in order to protect continued cigarette sales.</p> <p><i>Id.</i> ¶124; <i>see also id.</i> ¶¶ 41-42, 70-75, 78, 107-108, 110, 112, 123, 135-149, 151-162, 166, 169-70, 172, 175-76, 178, 246-52, 262, 274, 307, 375, 407.</p> <p>When they had research that condemned their product, they concealed it and didn't turn it over to the Surgeon General when</p>	

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	<p>question the link between smoking and disease.</p> <p>2/22/99 Tr. at 152.</p> <p>Next, and they constantly asked people, publicly, throughout the years - this is a 1969 publication and a 1974 publication. Does smoking cause illness, even death? And they always responded, no one knows. Not proven. Has any new evidence that actually convicted cigarettes being reported in recent years? The answer [is] no. Does smoking cause disease? The question is still an open one.</p> <p>2/22/99 Tr. at 153; <i>see also id.</i> at 124, 126-27, 150-61, 164.</p> <p>They said we don't believe that -- they say exactly this -- that there is no proof that</p>	<p>262-63, 274, 307, 364, 375, 407-08.</p> <p>They had said they had a paramount interest in the health of their customers, but what were they doing, any time they ran up against a situation that might help determine the effects of smoking on health, help determine how addictive nicotine might be, how addictive nicotine might be to the other chemicals and compounds in smoke, what happened? They chose the course not to publish that data.</p> <p>2/22/99 Tr. at 150.</p> <p>Let's take a look at the next document. Philip Morris. 1994, Philip Morris does not believe that cigarette smoking is addictive. 1994, the New York Times, April 15th. For</p>			<p>the Surgeon General asked for different reports throughout the year. They buried other research. They sent other research over to Europe.</p> <p>2/22/99 Tr. at 141.</p> <p>They said they had a paramount interest in the health of their customers, but what were they doing, any time they ran up against a situation that might help determine the effects of smoking on health, help determine how addictive nicotine might be, how addictive nicotine might be to the other chemicals and compounds in smoke, what happened? They chose the course not to publish that data.</p> <p><i>Id.</i> at 150; <i>see also id.</i> at 141, 151-52, 165-66, 181.</p>	

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	<p>cigarette smoking is one of the causes when they are talking about disease.</p> <p>3/16/99 Tr. at 4561; <i>see also id.</i> at 4541, 4559-60, 4603.</p>	<p>60 years they were writing about -- for forty years they were writing about what it is that they are delivering a dose level of nicotine, here is what they are telling the public. Here is what they are telling the Congress. Here is what they told the Surgeon General.</p> <p><i>Id.</i> at 168-69; <i>see also id.</i> at 126-27, 164-80.</p> <p>Let's just take a look, first of all, what they were saying about addiction. Take a look at 3213. This is 1988, when the Surgeon General's report comes out. And it talks, these are the guys who are cooperating with our public health officials, officials entrusted with our health. "Claims that cigarettes are addictive contradict common sense." That's the press release they are</p>			<p>All of these exhibits, and literally they go through these boxes, the boxes you have back with you, you will just see example after example where they kept information back or concealed it or destroyed it, knowing, knowing that these investigations would be going on by the Surgeon General, by the FDA, by Congressional hearings. And they did that so they wouldn't be discovered.</p> <p>3/16/99 Tr. at 4590; <i>see also id.</i> at 4541, 4587-89.</p>	

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<p><i>Falise v. Am. Tobacco Co., No. 99CV7392 (E.D.N.Y)</i></p> <p>Disposition:</p> <p>Trial resulted in a hung jury on claims against PM USA and B & W and plaintiffs subsequently dismissed the case (deliberations ended - 1/25/01).</p> <p>Excerpts from the record in <i>Falise</i> that are cited in this chart are attached as Exhibit 3.</p>	<p>Notwithstanding their knowledge to the contrary, the defendants have refused to acknowledge to the public that cigarette smoking is hazardous to human health . . . In October 1999, Philip Morris acknowledged on its Internet site that which it had for decades disputed: "There is an overwhelming medical and scientific consensus that cigarette smoking causes lung cancer, heart disease, emphysema, and other serious diseases in</p>	<p>Nicotine is a primary ingredient of cigarettes and is addictive. Cigarettes have been designed and manufactured by the defendants to induce and/or enhance nicotine addiction, with the goal of ensuring lifetime self-administration of lethal doses of harmful substances. . . . Such addiction has been promoted by the defendant manufacturers through (a) manipulation of nicotine levels; (b) control of pH-mediated nicotine</p>	<p>The defendant manufacturers' efforts to manipulate nicotine delivery levels are particularly deceptive in the context of defendants' marketing of "light" or "low-tar and low-nicotine" cigarettes. Recent studies demonstrate that cigarettes advertised as low-tar and low-nicotine actually contain higher concentrations of nicotine, by weight, than regular-yield cigarettes. FAC ¶ 89; <i>see also id.</i> ¶¶ 90-91.</p>	<p>[Defendant manufacturers also used][m]arketing, advertising, promotion and packaging to initiate and sustain addictive use patterns in both children and adults and, in particular, blue collar workers. FAC ¶ 64(e).</p>	<p>The defendants conducted biological research directed at developing a cigarette with reduced health risks. Such research broke down cigarette smoke into its several chemical constituents in order to discover which part of the smoke caused disease. Some or all of the defendants were successful in discovering which specific constituents were carcinogens, and which were link[ed] to other diseases, but kept the research secret and never reported it to the public.</p>	

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	<p>smokers. . . ."</p> <p>First Amended Complaint ("FAC") ¶ 1-4, 40-58, 94, 97, 108, 122-23, 133-37, 145, 147, 168, 178.</p> <p>I've listed there the things that they did: Denying that smoking caused lung cancer or disease; denying that asbestos/ tobacco synergy even existed, and you will hear that in this case; Launching a scheme to create doubt and controversy about all smoking and health issues . . .</p> <p>12/4/00 Tr. at 82; <i>see also id.</i> at 89-90, 92-97, 103, 109-11, 115, 125.</p> <p>Well, first of all, it's now unequivocal for decades they denied that lung cancer was caused by smoking, repeatedly denied it and what's the effect</p>	<p>impact; (c) specification of flavorants, additives and smoke chemistry to promote easy inhalability and thus rapid nicotine absorption; (d) use of high-porosity paper, low-pressure drop filtration, rapid-burning tobacco and other physical characteristics to facilitate rapid and repeated product use.</p> <p>FAC ¶ 64; <i>see also id.</i> ¶¶ 55, 76-88, 108, 121, 125-26, 138-40, 145-46, 148-51, 168, 178, 191.</p> <p>And they had some aid in that regard through something else that they knew, and that something else they knew, ladies and gentlemen, through their studies done decades ago, was that nicotine is an agent in cigarettes that makes it very difficult to quit.</p>	<p>The FTC concluded one-third of smokers polled falsely believed that low tar and nicotine cigarettes do not increase their health risk.</p> <p>1/17/01 Tr. at 6444.</p>		<p>FAC ¶ 72; <i>see also id.</i> ¶¶ 99, 108-20.</p> <p>Creating a research organization. This is the Council for Tobacco Research. We'll talk about that, CTR. You will hear during this trial it was created for public relations purposes and it avoided synergy research projects even though the industry said it was going to look into all phases of smoking and health. Suppressing or destroying research and documents.</p> <p>12/4/00 Tr. at 82; <i>see also id.</i> at 106-08, 112-14.</p> <p>Research suppression. Not only were documents destroyed, but we had significant evidence that scientists were the companies that wanted to do research, had to</p>	

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	<p>of that in this case.</p> <p>1/17/01 Tr. at 6423-24; <i>see also id.</i> at 6397, 6400-03, 6405-07, 6410-11, 6415-16, 6423-29, 6432, 6442-44, 6446-48, 6450, 6461-62, 6592-93, 6599, 6605-07.</p>	<p>Some people call it addicting. Some people call it habituating, dependence producing. The term is not important. What is important is the industry knew that it was nicotine in cigarettes that had a psychological effect and physiological effect on your mind and your body, that made it difficult for a segment of smokers to quit, not everybody.</p> <p>12/4/00 Tr. at 122-23; <i>see also id.</i> at 111, 124.</p> <p>In '78 Brown & Williamson, very few consumers are aware of nicotine, it has an addictive nature and nicotine is a poison. You remember, of course, the industry denied addiction consistently until a few years ago.</p> <p>1/17/01 Tr. at 6444;</p>			<p>suppress by the lawyers, altered by the lawyers or after they did it, it never got into the times.</p> <p>1/17/01 Tr. at 6391; <i>see also id.</i> at 6388-93, 6418, 6600.</p>	

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<p><i>Menchini v. Philip Morris Inc.</i>, No. 00-20916 (Fla. Cir. Ct.)</p> <p>Disposition:</p> <p>Defense verdict for PM USA and B & W on ETS claim (verdict - 11/16/07).</p> <p>Excerpts from the record in <i>Menchini</i> that are cited in this chart are attached as Exhibit 4.</p>		<p><i>see also id.</i> at 6397.</p>				<p>The cigarettes manufactured, distributed and sold by said Settling Defendants were unreasonably dangerous to bystanders who would be in or around the vicinity of the cigarette smoke. The cigarettes were manufactured defectively and were unreasonably dangerous at the time the cigarettes left the manufacturer's possession, [and] ... Settling Defendants failed to warn the decedent or any members of the public that passive exposure to cigarette smoke exposed the decedent to serious health hazards.</p> <p>Compl. ¶ 11; <i>see also id.</i> ¶¶ 26, 29.</p> <p>Annette Menchini died of lung cancer at 47 years old. She was a</p>

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						<p>life-long nonsmoker. She developed lung cancer as a result of her 16 years as a flight attendant on smoke-filled airplanes, 16 years. It was that exposure to secondhand smoke over that 16-year period, back in the day when smoking was allowed on those airplanes, that caused her lung cancer. And it was that exposure to secondhand smoke that killed her.</p> <p>11/2/07 Tr. at 833; <i>see also id.</i> at 832-79.</p> <p>Tobacco smoke causes lung cancer. Secondhand smoke causes lung cancer. There is no dispute about that.</p> <p>11/16/07 Tr. at 3254.</p>
<i>VanDenburg v. Brown & Williamson Tobacco Corp., No. 03-CV202909 (Mo.</i>	For decades, the manufacturing defendants, defined <i>infra</i> , knew or should	[D]efendants have intentionally conspired to mislead, deceive and confuse the		Plaintiffs began smoking as minors having been influenced and induced to smoke	Defendants systematically suppressed and concealed material	

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<p>Cir. Ct.)</p> <p>Disposition:</p> <p>Defense verdict for PM USA and B & W on failure to warn, negligence, product defect, concealment, and conspiracy claims (verdict - 2/22/06).</p> <p>Excerpts from the record in <i>VanDenburg</i> that are cited in this chart are attached as Exhibit 5.</p>	<p>have known about the carcinogenic and toxic properties of their cigarettes. For example, the manufacturing defendants knew or should have known that tobacco products caused lung cancer by at least the early 1950s. Despite this knowledge, these same defendants have intentionally conspired to mislead, deceive and confuse the American government and public, including plaintiffs, concerning the harmful effects of smoking on the health of individuals; that nicotine is an addictive drug, and; that defendants intentionally manipulate the amount and/or transfer efficiency of the naturally occurring nicotine in cigarettes to ensure that smokers remain addicted and continue to buy their cigarette products.</p> <p>Am. Petition ¶ 2; <i>see also id.</i> ¶ 3.</p> <p>These companies promoted cigarettes more, knowing that what they were doing is selling addictive</p>	<p>American government and public, including plaintiffs, concerning [the fact] that nicotine is an addictive drug. . . .</p> <p>[D]efendants have intentionally conspired to mislead, deceive and confuse the American government and public, including plaintiffs, concerning [the fact] that defendants intentionally manipulate the amount and/or transfer efficiency of the naturally occurring nicotine in cigarettes to ensure that smokers remain addicted and continue to buy their cigarette products.</p> <p>Am. Petition ¶ 2; <i>see also id.</i> ¶ 3.</p> <p>These companies promoted cigarettes more, knowing that what they were doing is selling addictive</p>		<p>by an aggressive campaign of advertisements, inducements, information communications, and promotional items utilized by the manufacturing defendants to encourage and convince minors to start smoking.</p> <p>Am. Petition ¶ 15; <i>see also id.</i> ¶¶ 16, 28.</p> <p>To stay in business they have to attract kids. They have to. And so the lawyers have no choice but to encourage them to attract kids, and they've been doing that from the beginning.</p> <p>2/17/06 Tr. at 150; <i>see also id.</i> at 149-64.</p>	<p>information and waged an aggressive campaign of disinformation regarding the health effects of smoking.</p> <p>Am. Petition ¶ 3.</p> <p>You heard what he was concerned about, the construction of documents, the altering of reports, the shipping of research out of the country so that juries like you never would see it.</p> <p>2/17/06 Tr. at 148; <i>see also id.</i> at 140, 176, 179.</p>	

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	<p>cigarette products. Am. Petition ¶ 2; <i>see also id.</i> ¶ 3.</p> <p>Cigarette companies knew that if this became the view of all Americans, that cigarettes would cause cancer, it would certainly drive down sales. So they did everything they could for as long as they could to fight this idea.</p> <p>1/9/06 Tr. at 36; <i>see also id.</i> at 15, 50-59.</p> <p>Dr. Wigand, the chief scientist for Brown & Williamson, a true insider, said to you that within these companies they knew that tobacco smoking was addictive and would cause cancer and that they fought to convince the public otherwise and that they knew they were deceiving the public.</p>	<p>drugs. "What we need to know above all things is what constitutes the hold of smoking, that is, to understand addiction." But to the public they continued to deny that smoking was addictive until these documents were released through lawsuits like this. In fact, up until 1994 when all of the CEOs of these companies appeared before Congress, what did they swear under oath? You're going to see evidence of it. They swore under oath that cigarettes were not addictive. 1994.</p> <p>1/9/06 Tr. at 40-41; <i>see also id.</i> at 35-47, 50, 57, 76-79.</p> <p>These things, these strategies, these tactics are not an accident, and they were created for you. They were created for juries like you to blame the</p>				

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	2/17/06 Tr. at 143; <i>see also id.</i> at 137-38, 140-41, 167-81.	smoker for their conduct all the time when they knew the product they were selling was addictive. 2/17/06 Tr. at 142; <i>see also id.</i> at 141-43, 156-79, 195.				
<p><i>Swaty v. Philip Morris Inc.</i>, No. 00-2269 (Fla. Cir. Ct.)</p> <p>Disposition:</p> <p>Defense verdict for PM USA and B & W (verdict - 5/3/05).</p> <p>Excerpts from the record in <i>Swaty</i> that are cited in this chart are attached as Exhibit 6.</p>						<p>Said Settling Defendants manufactured, sold and distributed cigarettes in a defective state. The cigarettes manufactured, distributed, and sold by said Settling Defendants were unreasonably dangerous to bystanders who would be in or around the vicinity of the cigarette smoke. The cigarettes were manufactured defectively and were unreasonably dangerous at the time the cigarettes left the manufacturers' possession.</p> <p>Compl. ¶ 7(a); <i>see also id.</i> ¶¶ 7(b)-(d), 18-21.</p>

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						<p>Now, of all these forms of smoke, all of them are bad. Some are worse than others; none of it is good. And this is an important case, because you will be deciding whether the involuntary smoking, whether the passive smoking that was forced upon my client, was harmful to her health in causing or contributing substantially to this disease.</p> <p>4/26/05 Tr. at 441-42; <i>see also id.</i> at 430-31, 455-56.</p> <p>What is the truth about secondhand smoke and health? The tobacco companies in this trial have tried to hide behind the science.</p> <p>5/3/05 Tr. at 1706; <i>see also id.</i> at 1709, 1715, 1734-37, 1801, 1812-13.</p>

Case Name and Result	Adverse Health Effects of Smoking	Addiction and Nicotine Manipulation	Light and Low Tar Cigarettes	Youth Marketing	Concealment and Suppression of Research and Documents	Environmental Tobacco Smoke
<p><i>Beckum v. Philip Morris USA Inc., No. 02-01836 (Fla. Cir. Ct.)</i></p> <p>Disposition:</p> <p>Defense verdict for PM USA on strict liability (verdict - 4/29/05).</p> <p>Excerpts from the record in <i>Beckum</i> that are cited in this chart are attached as Exhibit 7.</p>	<p>The conspirators gave encouragement, substantial assistance to each other and otherwise aided and abetted each other in perpetrating their secret plan to fraudulently conceal the dangers of cigarettes. Much of the concealment was further accomplished through messages of denial that cigarettes were harmful.</p> <p>First Amended Complaint ("FAC") ¶ 47; <i>see also id.</i> ¶¶ 28, 31, 33-35, 37(m), 46, 49(h).</p> <p>And so, what happened was the companies got together, all the big cigarette companies, and they formed what was called the Tobacco Industry Research Committee, and then later they formed what was called the Tobacco</p>	<p>These statements are in sharp contrast and inconsistent with the intentional public statements that nicotine was not addictive and which were made to Congress by the defendants. The defendants continued to deny that nicotine is addictive through the late 1990s and have not only misrepresented the nature of cigarette's addictive properties, but they have deceived, by actively and refusing to disclose the truth of which they were aware as far back as the early 1950s.</p> <p>FAC ¶ 49(a).</p> <p>Not only did the defendant conspirators fail to disclose what they knew about nicotine addiction, they actively deceived by secretly</p>	<p>In 1966 the Surgeon General reported that the preponderance of scientific evidence strongly suggests that "the lower the tar and nicotine content of cigarette smoke; the less harmful would be the effect." Publicly the cigarette companies then implied in their advertising and promotions, that filtered low tar, low nicotine cigarettes were health. The advertising and promotion was simply a ploy because the cigarette companies knew through their own research in the early 1970s that smokers compensate for the lack of nicotine and low tar by puffing more frequently and by increasing the depth or duration of smoke inhalation.</p> <p>FAC ¶ 49(f); <i>see also id.</i> ¶ 48.</p>	<p>And they know that smokers begin young, and they attempt to influence their beliefs about the safety of smoking. And they did that from the get-go. Because older smokers die or people quit as they get older, they have to have new smokers take their place, and they're always young people. That's where they come from. And they're susceptible to advertising and the glamour and even the risk. And even the risk.</p> <p>4/19/05 Tr. at 416-17.</p>	<p>Additionally, the conspirators suppressed medical and scientific data and other knowledge regarding health hazards and the addictive properties of their cigarettes and they thereby caused plaintiff to be and remain ignorant thereof.</p> <p>FAC ¶ 31; <i>see also id.</i> ¶¶ 47, 49(b), 49(h).</p> <p>They never wanted to have the research done that would be in their name in this country that somebody could find and show you know that it causes cancer, because they were afraid of a huge liability. There's no question about it.</p> <p>4/28/05 Tr. at 2766; <i>see also id.</i> at 2760-62, 2765; 4/29/05 Tr. at 2852, 2858, 2860, 2868-69.</p>	

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	<p>Institute. And they hired -- the guy they hired to run the research committee was like the former head of the American Cancer Association, who maintained that there was no connection between cigarettes and cancer.</p> <p>...</p> <p>But on tobacco for 300 years, and they say there's never been a shred of evidence that it killed anyone. Never caused any disease. That's the position that they took publicly.</p> <p>4/19/05 Tr. at 417-18; <i>see also id.</i> at 420.</p>	<p>manipulating the level of nicotine within their cigarettes to create and to maintain addiction.</p> <p>FAC ¶ 49(d); <i>see also id.</i> ¶¶ 31, 37(j), 37(k), 47-48, 49(b), 49(f).</p> <p>Of course, Philip Morris denied that it was addictive until like 1999. Denied it publicly. You'll see some stuff on that.</p> <p>4/19/05 Tr. at 419; <i>see also id.</i> at 406, 408-09, 412-13, 420.</p> <p>They knew a long time ago how to get the nicotine out of the cigarette. What you have to do is you have to take it out of all of them. They've tried to wean people down. You've heard testimony about how over the years the tar and nicotine levels have come down, but they only brought</p>	<p>They basically told smokers through their advertising and other messages that the regular -- that the filtered and light cigarettes were not as hazardous. That's what people believed. They knew they believed it. They had what they called "a healthy cigarette" scheme, and you'll hear about their -- it's in some of their documents. It's their own secret stuff that you're going to be shown.</p> <p>4/19/05 Tr. at 420.</p> <p>You might remember the healthy cigarette. And Philip Morris knows. They know that consumers look at cigarettes in general as healthier if they're light cigarettes, healthier even yet if they're ultra light cigarettes, filters</p>			

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		them down so far. 4/29/05 Tr. at 2867; <i>see also id.</i> at 2770-72, 2870-71, 2874.	healthier than regular cigarettes. 4/29/05 Tr. at 2862, 2872.			
Coolidge v. Philip Morris Inc., No. RIC-361063 (Cal. Super. Ct.) Disposition: Defense verdict for PM USA on medical causation, fraudulent concealment, and negligence, products liability and failure to warn (verdict - 4/21/05). Excerpts from the record in <i>Coolidge</i> that are cited in this chart are attached as Exhibit 8.	For years, the cigarette manufacturers have known both about the carcinogenic and toxic properties of cigarettes. The cigarette manufacturers have known that tobacco products could cause lung cancer since at least 1946, and they have intentionally conspired to mislead, deceive and confuse the government, and the public, including plaintiff, concerning the harmful and debilitating effects smoking has on the health of individuals... Compl. ¶ 2; <i>see also id.</i> ¶¶ 3, 4(b), 4(c), 4(h), 7, 10, 15-18, 53-54, 68, 70, 71, 94, 103, 124. The evidence will	The nicotine in cigarettes is addictive, due to the pharmacological effect of nicotine. Cigarette defendants and co-conspirators have known this since at least the early 1960s. Compl. ¶ 19; <i>see also id.</i> ¶¶ 2, 3, 6, 16, 20-21, 51(i), 51(j), 56(b), 68, 70, 92-93, 96, 112. The evidence will also show that 40 years ago Philip Morris denied, denied that nicotine was addictive. It denied it was addictive 30 years ago and it continued to deny it 20 years ago. The evidence will also show that Philip Morris knew that the reason individuals smoked was nicotine. That is what kept	At times material to this action, cigarette defendants actually knew, or in the discharge or ordinary care should have known . . . that switching to the so-called "light" cigarette would not be less hazardous because the individual would compensate for the decreased nicotine levels by smoking more. Compl. ¶ 51(h); <i>see also id.</i> ¶ 51(i).	Had plaintiff known ... that he as a minor was being targeted by the cigarette defendants to replace older, dying smokers ... he would not have smoked. Compl. ¶ 99; <i>see also id.</i> ¶ 4(f) & (g). And you know as the marketing will show as you will hear through the experts you're going to hear from, Dr. Marvin Goldberg, he is an advertising expert, he is going to tell you about how Philip Morris engaged in marketing to minors. Knew that minors, youngsters, were its next generation smokers. That adult smokers on the other side either died off or quit somehow. That it	Cigarette defendants . . . misrepresented, suppressed and confused the facts about the health dangers of smoking, including addiction. They concealed their actual knowledge concerning their own negative health and addiction research results and their manipulation and control of the nicotine content of their products... Compl. ¶ 70; <i>see also id.</i> ¶¶ 3, 4(a), 6, 68, 94. Why hide the evidence? Why not talk about it? Why? Why all this stuff about burying documents? Why send stuff over to a European lab? Why? Why spend all that	

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	<p>show that although it knew about lung cancer and smoking, it continued to deny it or place doubt in that contention, in the contention that smoking causes lung cancer.</p> <p>3/7/05 Tr. at 1303-04; <i>see also id.</i> at 1307, 1311-12, 1314-15, 1318-19.</p> <p>What did Philip Morris do? Well, it said we're going to have to reduce the pain side of this equation. How are we going to do it? We're going to create doubt as to the health charge. We're going to say, well, no study really says that. This is all statistical things. That is what it is. This is all, you know, it is not scientifically proven.</p> <p>Dr. Kassman sat on that chair and told you as of today it is not scientifically proven</p>	<p>people smoking.</p> <p>3/7/05 Tr. at 1303; <i>see also id.</i> at 1305, 1307-11, 1318-19.</p> <p>What else did they do? Addiction. Well, we're not going to talk about it. We're going to do all our studies in secret. Anything that we have that shows that this stuff is addictive, we're not going to let out. We're going to destroy it. You saw evidence of that. And we're just going to sit there in state of denial.</p> <p>4/19/05 Tr. at 3992-93; <i>see also id.</i> at 3989, 4010-11, 4014, 4016-22, 4025, 4037, 4039; 4/20/05 Tr. at 4178.</p>		<p>would need new smokers.</p> <p>3/7/05 Tr. at 1311; <i>see also id.</i> at 1304, 1313.</p> <p>And what did they do on the enjoyment side, what did they do on the pleasure side? They did their advertising. Who did they target? The most vulnerable, vulnerable section of society. The minors, the kids.</p> <p>4/19/05 Tr. at 3993; <i>see also id.</i> at 3994, 4005-09, 4013-14, 4017, 4025, 4037.</p>	<p>money all that time, take all those chances if it is so what, if it doesn't mean a thing. I think that it is clear and common sense tells us they must have been doing it for a purpose.</p> <p>4/19/05 Tr. at 3989; <i>see also id.</i> at 4018, 4022, 4026, 4034, 4036; 4/20/05 Tr. at 4165, 4185.</p>	

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	that smoking causes lung cancer. That is what they did on the health side. 4/19/05 Tr. at 3992; <i>see also id.</i> at 3996-99, 4001-04, 4018, 4039, 4045; 4/20/05 Tr. at 4176, 4178.					
<i>Reller v. Philip Morris USA, Inc., No. BC 261796 (Cal. Super. Ct.), Second Trial</i> Disposition: This case was tried to a jury twice. In the second trial, which focused on that one count of fraudulent concealment, the jury found for Philip Morris (verdict - 3/4/05). Excerpts from the record in <i>Reller II</i> that are cited in this chart are attached as Exhibit 9.	Since the 1950's, cigarette defendants and the other cigarette manufacturers publicly promised to lead the effort to discover and disclose the truth about smoking and health. However, they instead systematically suppressed and concealed material information and waged an aggressive campaign of disinformation about the health consequences of smoking. They have known for years, based on their own secret research, that their products eventually injure or kill the	Cigarette manufacturers . . . concealed their actual knowledge concerning their own negative health and addiction results and their manipulation and control of the nicotine content of their products to create and perpetuate smokers' addiction to cigarettes. The cigarette manufacturers represented, falsely, that there was insufficient "objective" research to determine if cigarette smoking causes disease and that cigarettes are not addictive.		This action arises out of an ongoing conspiracy by cigarette defendants herein, and their trade associations, their lawyers, DNA Plant Technology and persons and/or entities unknown to plaintiff at the present time which together control the cigarette industry for the following purposes . . . to knowingly and intentionally sell cigarettes to minors to ensure a future lucrative market for cigarettes as older smokers died and . . . to induce and entice minors to smoke so as to hook another	The cigarette manufacturers used lawyers to misdirect what purported to be objective scientific research to create favorable findings, and to suppress and/or destroy unfavorable findings, regarding the health consequences of smoking. FACPIWD ¶ 4, <i>see also id.</i> ¶¶ 118, 135. The uncontested evidence in this case is going to be that Philip Morris chose to do the research in Germany and not the United States so that it could better hide all of the	

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	<p>consumer when used exactly as intended. Even now, the cigarette manufacturers continue to deny and conceal facts concerning cigarettes and disease and that nicotine is addictive and purposefully manipulated.</p> <p>First Amended Complaint for Personal Injuries and Wrongful Death ("FACPIWD") ¶ 3; <i>see also id.</i> ¶¶ 4, 30, 66, 67, 81, 118.</p> <p>One of the things that is claimed in the case here by Mrs. Reller, by me, is that a conspiracy started around December of 1953, and that conspiracy involved all of the major American tobacco companies . . . and the purpose of the conspiracy, simply put, was to protect the tobacco industry in this country. Because</p>	<p>FACPIWD ¶ 4, <i>see also id.</i> ¶¶ 37, 87-88.</p> <p>What they knew was that they had an addicting drug they were selling. And what they knew was that the people they were selling this to would become addicted to their product. And what they knew was that would be a bad thing to admit. That would be a very bad thing to disclose.</p> <p>1/27/05 Tr. at 1626-27; <i>see also id.</i> at 1629.</p>		<p>generation of smokers who by the age of majority were addicted or dependent and against whom defendants could now assert "adult free choice" defenses.</p> <p>FACPIWD ¶ 118(f) & (g); <i>see also id.</i> ¶¶ 31, 37, 47, 54, 151.</p>	<p>documents and all of the research and all of the evidence, and it would never find its way into a courtroom. And the uncontested evidence is going to be that Philip Morris had joined with all of the other major tobacco companies in something that was called - - not the first time this phrase has been used - - the gentlemen's agreement. And the agreement between the tobacco companies was that they would not do any research on United States soil into smoking and health issues involving human beings because they didn't want their research to fall into the hands of the government or to come into a room like this.</p> <p>1/27/05 Tr. at 1651.</p>	

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	<p>if these companies disclosed what they truly knew, they feared that they would have to go out of business. 1/27/05 Tr. at 1608; <i>see also id.</i> at 1605-18, 1624-36, 1649-54.</p> <p>There's been no reason that's been given in this trial, except for money, that Philip Morris did not support a single, consistent health message on the role played by cigarette smoking in the development of disease in smokers in 1990, 1980, 1970, 1960. And I can go backwards, but as far as Philip Morris' role here is concerned, I have to stop at 1964. Who here in this trial said that Philip Morris did not know that smoking caused lung cancer and could kill you in 1964.</p> <p>3/2/05 Tr. at 5384; <i>see also id.</i> at 5384-89,</p>					

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	5393-96, 5401-15, 5428-46.					
<p>Hall v. R.J. Reynolds Tobacco Co., No. 00-1061 (Fla. Cir. Ct.)</p> <p>Disposition:</p> <p>Defense verdict for PM USA and B & W on negligence and strict liability (verdict - 12/10/03).</p> <p>Excerpts from the record in <i>Hall</i> that are cited in this chart are attached as Exhibit 10.</p>	<p>The conspirators agreed among themselves to positively and intentionally assert to plaintiff, in a manner not warranted by the information possessed by the conspirators, that it was safe for plaintiff to smoke cigarettes while the conspirators knew it was unsafe to do so.</p> <p>Compl. ¶ 40; <i>see also id.</i> ¶¶ 36, 43, 44, 46(b), 46(h), 49(a), 49(h), 50.</p> <p>Our claim is that the information that Mr. Hall got from the cigarette companies was exactly the opposite. They denied - - they denied for 50 years that cigarettes were dangerous.</p> <p>11/5/03 Tr. at 487; <i>see also id.</i> at 488, 493, 497-99, 501, 511-12,</p>	<p>Also, Brown & Williamson's general counsel in 1963 stated: "Moreover, nicotine is addictive. We are then in the business of selling nicotine, an addictive drug effective in the release of stress mechanisms." . . . The defendants have continued to deny that nicotine is addictive and have not only misrepresented the nature of cigarette's addictive properties, but they have deceived, by actively concealing and refusing to disclose the truth of which they were aware as far back as the early 1960s.</p> <p>Compl. ¶ 49(a)</p> <p>Not only did the defendant conspirators fail to disclose what they knew about nicotine addiction,</p>	<p>Publicly the cigarette companies then implied in their advertising and promotions, that filtered low tar, low nicotine cigarettes were healthy. The advertising and promotion was simply a ploy because the cigarette companies knew through their own research in the early 1970s that smokers compensate for the lack of nicotine and low tar by puffing more frequently and increasing the depth or duration of smoke inhalation. The conspirators also knew that smokers also compensated by smoking more cigarettes per day. Plaintiff and others who tried low tar nicotine brands were thus duped and actively deceived by</p>		<p>Additionally, the conspirators suppressed medical and scientific data and other knowledge regarding health hazards and the addictive properties of their cigarettes and they thereby caused plaintiff to be and remain ignorant thereof.</p> <p>Compl. ¶ 40; <i>see also id.</i> ¶¶ 49(b), 49(h).</p>	

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	<p>534-35, 540-45.</p> <p>[The Tobacco Industry Research Committee] says we haven't found anything harmful in the cigarette -- in cigarette smoke, but if we do, we'll take it out. Well, they knew. They had found harmful stuff in the cigarette smoke. They had found carcinogens in the cigarette smoke. That was not the truth.</p> <p>12/8/03 Tr. at 5043; <i>see also id.</i> at 5029-30, 5039-48, 5051, 5070-82.</p>	<p>they actively deceived by secretly manipulating the level of nicotine within their cigarettes to create and to maintain addiction.</p> <p>Compl. ¶ 49(d); <i>see also id.</i> ¶¶ 46(j), 46(k), 49(b), 49(c), 50.</p> <p>By the way, it wasn't until 1988 that the Surgeon General said that cigarettes were addictive . . . Of course, the cigarette companies, these companies, denied that. They denied it was addictive. They denied it was addictive in the '90s.</p> <p>11/5/03 Tr. at 511-12; <i>see also id.</i> at 553-55.</p> <p>Scientists have known for decades nicotine is the most important reason why people smoke. The cigarette companies want to say it's not the only reason. Ah, they don't</p>	<p>the conspirators.</p> <p>Compl. ¶ 49(e); <i>see also id.</i> ¶ 46(i).</p>			

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		care about the only reason. It's the - - it is the most important reason. And when you pull the nicotine out, then the sales go down the drain. 12/8/03 Tr. at 5077-78; <i>see also id.</i> at 5085-86, 5097.				
Longden v. Philip Morris USA Inc., No. 00-C-442 (N.H. Super. Ct.) Disposition: Defense verdict for PM USA on strict liability, negligence, fraud, and conspiracy; plaintiff's implied warranty claim dismissed by court (verdict - 11/24/03). Excerpts from the record in <i>Longden</i> that are cited in this chart are attached as Exhibit 11.	The Cigarette Defendants, who manufacture and sell almost all of the cigarettes purchased in New Hampshire, and their co-conspirators have for many years sought to deceive the public about the health risks of smoking. Defendants have repeatedly and consistently denied that smoking cigarettes causes disease, even though they have known since the early 1950's, at the latest, that smoking increases the risk of disease and death. Am. Compl. ¶ 16; <i>see also id.</i> ¶¶ 17, 34-39,	[The Cigarette Defendants] have repeatedly and consistently denied that cigarettes are addictive even though they have long understood and intentionally exploited the addictive properties of nicotine. Am. Compl. ¶ 16; <i>see also id.</i> ¶¶ 42, 55, 57-59, 69-73, 75, 80-82, 83, 128, 130, 134, 139, 144, 156, 160, 165, 167-71, 188. What I would like to do in light of where they were and what they knew about cigarettes is to show		In addition to ensuring a captive market through the addiction of its customers, the cigarette industry has maintained its sales -- and replaced the hundreds of thousands of smokers who die each year -- by its knowing attraction of children and adolescents. Am. Compl. ¶ 84; <i>see also id.</i> ¶¶ 85-86, 156, 188-89. Now, the first thing I want to tell you that I think the evidence will show is that these companies chose deliberately to target	Cigarette defendants used lawyers to misdirect what purported to be objective scientific research, and to suppress or destroy unfavorable findings regarding the health consequences of smoking. To discourage meritorious litigation by plaintiffs injured due to tobacco, they engaged in "scorched earth" litigation in combination with suppressing, destroying and distorting evidence. Am. Compl. ¶ 160; <i>see also id.</i> ¶¶ 38, 39, 116, 128, 130, 137, 145,	

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	<p>42, 103, 116, 119, 128, 130, 134, 137, 145, 147, 156, 160, 164-66, 188.</p> <p>It's a case about a pack of lies, about two industries or two companies in an industry, Philip Morris being the leading cigarette manufacturer in the world, who made some choices and their choice was to deceive the public, to deny the truth about smoking, create doubt so that people would keep smoking, to delay the recognition in smokers of the dangers. And the evidence will be that those dangers are specifically emphysema, heart disease, and lung cancer that kills 400,000 Americans a year, that's per year; and they made those choices 50 years ago.</p> <p>10/6/03 Tr. at 18-19;</p>	<p>you what the executives did when they had a chance to testify as to the addictive nature of nicotine. . . . These are the chief executives. So that's what they said publicly as recently as 1994. They said it under oath. And they said it to you and they said it to Congress. And when I said we will show you, the evidence will be they lies. They were trying to deceive, I think it's clear. This is the front page from the Union Leader the day after that testimony. "Tobacco Executives Answer Angry Panel, Say Cigarettes Aren't Addictive, Harmful."</p> <p>10/6/03 Tr. at 53-54; <i>see also id.</i> at 32, 45-46, 58.</p> <p>Now let's talk about what they knew in 1959. I'm not gonna go through it in length.</p>		<p>kids. That was important to them, because they have a problem with their product.</p> <p>10/6/03 Tr. at 27; <i>see also id.</i> at 21, 28-31.</p> <p>And this is the Surgeon General's report of 1994. It's 3.1 million adolescents are current smokers. Ten years ago 3.1 million adolescents were current smokers. They were recruiting because as the 400,000 died on the back end, you gotta bring them in on the front end.</p> <p>11/20/03 Tr. at 97-98; <i>see also id.</i> at 99, 119.</p>	<p>156, 160, 166, 188.</p> <p>This is a document from Dr. Osdene, who I mentioned previously, and Dr. Osdene in this document says about some testing, the evidence will be, Tom Osdene said, "Ship all documents to Cologne. Keep them in Cologne." That's in Germany. "Okay to phone and telex. These will be destroyed." And then, finally, in paragraph six, "If important letters or documents have to be sent, please send to home. I will act on them and destroy." Is this a company who's doing and concerned about the health, paramount - as the Frank Statement said - paramount concern is the health of our smokers? Or are they trying to hide testing results by</p>	

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	<p><i>see also id.</i> at 22, 36-40, 43-45, 48, 51, 58.</p> <p>Well, first of all, they tried to blow the whole thing off and said the charges have been abandoned for lack of evidence, and we believe the products we make are not injurious to health. We know they knew better than that.</p> <p>11/20/03 Tr. at 115; <i>see also id.</i> at 90-91, 116, 118.</p>	<p>You remember this one. Dr. DuPuis, the head of research at Philip Morris, "Why do people smoke?" "Addiction." He didn't say "habit," did he? He didn't say "because it's hard to quit." No, the boys inside Richmond knew exactly what they had. It was no shocking surprise to them. It was a surprise to a lot of other people, but not to them, because most people thought it was a habit.</p> <p>11/20/03 Tr. at 102; <i>see also id.</i> at 81, 86, 101-04, 106-07, 109, 111, 116-18.</p>			<p>making sure that when lawyers say produce all documents in Richmond relating to X, they can say don't have them.</p> <p>10/6/03 Tr. at 47.</p> <p>So again, they knew full well, and I'm not gonna go through this again, but you know from this "ship all documents to Cologne, destroy telexes and telephones. Dr. Farone explained that whole context to you. It was a meeting he had with some of the top-ranking Philip Morris executives. This isn't a company that did this by accident.</p> <p>11/20/03 Tr. at 116; <i>see also id.</i> at 119.</p>	Settling Defendants failed to warn Plaintiff or any members of the public that passive exposure to cigarette smoke exposed
<p>Routh v. Philip Morris Inc., No. 00-3030 (Fla. Cir. Ct.)</p> <p>Disposition:</p>						

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<p>Defense verdict for PM USA and B & W (verdict - 10/14/03).</p> <p>Excerpts from the record in <i>Routh</i> that are cited in this chart are attached as Exhibit 12.</p>						<p>Plaintiff to serious health hazards.</p> <p>Amended Compl. ¶ 7(d)(ii).</p> <p>So to say that there's some question as to whether secondhand smoke can cause disease, including lung cancer, in otherwise healthy smokers is an issue, it is not an issue. The evidence will clearly show you it is not an issue. It's admitted by that defendant, perhaps not in this courtroom today, but on their website.</p> <p>9/25/03 Tr. at 752; see <i>also id.</i> at 724, 751.</p> <p>You know, it is interesting and I like to see what people say when they are not defending lawsuits. Because what they said here is interesting. You know, that there was testimony that you</p>

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<p>Reller v. Philip Morris USA, Inc., No. BC 261796 (Cal. Super. Ct.), First Trial</p> <p>Disposition:</p> <p>This case was tried to a jury twice.</p> <p>In the first trial, the jury returned a full defense verdict on all but one count of fraud (against defendant Philip Morris USA Inc.), on which the court declared a mistrial (verdict - 7/31/03).</p> <p>Excerpts from the record in <i>Reller I</i> that are cited in this chart</p>	<p>Since the 1950's, cigarette defendants and the other cigarette manufacturers publicly promised to lead the effort to discover and disclose the truth about smoking and health. However, they instead systematically suppressed and concealed material information and waged an aggressive campaign of disinformation about the health consequences of smoking. They have known for years, based on their own secret research, that their products eventually injure or kill the</p>	<p>Cigarette manufacturers . . . concealed their actual knowledge concerning their own negative health and addiction results and their manipulation and control of the nicotine content of their products to create and perpetuate smokers' addiction to cigarettes. The cigarette manufacturers represented, falsely, that there was insufficient "objective" research to determine if cigarette smoking causes disease and that cigarettes are not addictive.</p>		<p>This action arises out of an ongoing conspiracy by cigarette defendants herein, and their trade associations, their lawyers, DNA Plant Technology and persons and/or entities unknown to plaintiff at the present time which together control the cigarette industry for the following purposes . . . to knowingly and intentionally sell cigarettes to minors to ensure a future lucrative market for cigarettes as older smokers died and . . . to induce and entice minors to smoke so as to hook another</p>	<p>The cigarette manufacturers used lawyers to misdirect what purported to be objective scientific research to create favorable findings, and to suppress and/or destroy unfavorable findings, regarding the health consequences of smoking.</p> <p>FACPIWD ¶ 4, <i>see also id.</i> ¶¶ 118, 135.</p> <p>And in this confidential memo -- first, I want to say the following. Until five or six years ago, virtually no one had seen these things. Juries hadn't seen it,</p>	<p>heard that, well, the science isn't really in yet, we don't really know whether or not secondhand smoke causes disease, because some doctors think that it may not.</p> <p>10/13/03 Tr. at 3512; <i>see also id.</i> at 3480.</p>

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are attached as Exhibit 13.	<p>consumer when used exactly as intended. Even now, the cigarette manufacturers continue to deny and conceal facts concerning cigarettes and disease and that nicotine is addictive and purposefully manipulated.</p> <p>First Amended Complaint for Personal Injuries and Wrongful Death ("FACPIWD") ¶ 3; <i>see also id.</i> ¶¶ 4, 30, 66, 67, 81, 118.</p> <p>On January 4, 1954, the tobacco companies as a group . . . make these three statements . . . "we believe the products we make are not injurious to health." Probably not true at the time, but certainly, and without any question, that statement was turned on its head and that statement became false because, as we're</p>	<p>FACPIWD ¶ 4, <i>see also id.</i> ¶¶ 37, 87-88.</p> <p>In 1994, Philip Morris's CEO and those other CEOs that you just saw were still denying that nicotine was addictive.</p> <p>6/11/03 Tr. at 5261; <i>see also id.</i> at 5258-60.</p> <p>And when the results were in that they demonstrated that the rats' behavior showed nicotine to be addictive, in came the execs, in came the lawyers, and they were told to - - and all this was secret by the way. If you remember the testimony, the rats were brought in all covered up under drapes. No one from an outside department was allowed in there, they weren't supposed to talk about their work with anyone, this was all hash-hush.</p>		<p>generation of smokers who by the age of majority were addicted or dependent and against whom defendants could now assert "adult free choice" defenses.</p> <p>FACPIWD ¶ 118(f) & (g); <i>see also id.</i> ¶¶ 31, 37, 47, 54, 151.</p>	<p>the public hadn't seen it. And a lot of these documents are - - or most of these documents that I'm going to be talking about here had been unearthed and uncovered within the last five or six years.</p> <p>6/11/03 Tr. at 5255; <i>see also id.</i> at 5278-79.</p> <p>If you remember the testimony, the rats were brought in all covered up under drapes. No one from an outside department was allowed in there, they weren't supposed to talk about their work with anyone, this was all hush-hush . . . And the rats were gone, the lab was gone, the research was over, and it all disappeared for a while.</p> <p>7/22/03 Tr. at 10116; <i>see also id.</i> at 10126-27.</p>	

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	going to see, the tobacco industry knew darn well that its product killed people, but it continued to tell lies about that fact. 6/11/03 Tr. at 5237; <i>see also id.</i> at 5230, 5239-40, 5243-48, 5251-52, 5258, 5262, 5266-67, 5279, 5283, 5286-89. Philip Morris knew in the sixties, early sixties, that there were bad carcinogens in their cigarettes. And dummied it up. And lied about it. 7/22/03 Tr. at 10080; <i>see also id.</i> at 10063, 10065, 10068-71, 10077-88, 10091, 10093-94, 10110-11, 10128, 10134-35, 10162, 10164, 10173.	And when it was determined that the results were showing that nicotine was addictive, in came the execs, and one of the senior execs is quoted in that passage we read as saying: We all know nicotine is addictive, it's addictive as hell. And the rats were gone, the lab was gone, the research was over, and it all disappeared for a while. 7/22/03 Tr. at 10116; <i>see also id.</i> at 10119, 10121, 10170-78.				
Welch v. Brown & Williamson Tobacco Corp., No. 00-CV209292 (Mo. Cir. Ct.)	Since the 1950's, the cigarette defendants publicly promised to lead the effort to discover and disclose the truth about	The evidence will be that from 1963 they knew that nicotine was an addictive drug and they were in the drug business.	They believed that if they manufactured a safer product, they would have to admit that their previous products were unsafe	At times material, and specifically prior to 1969, the cigarette defendants conducted an aggressive marketing,	Defendants' concealment and failure to communicate to the public scientific facts in their possession, and their	

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<p>Disposition:</p> <p>Defense verdict for PM USA and B & W on product defect, failure to disclose health risks and addictive qualities of smoking, and negligence claims (verdict - 6/16/03).</p> <p>Excerpts from the record in <i>Welch</i> that are cited in this chart are attached as Exhibit 14.</p>	<p>smoking and health. However, they systematically suppressed and concealed material information and waged an aggressive campaign of disinformation about the health consequences of smoking. They have known for years, based on their own secret research, that their products eventually injure or kill the consumer when used exactly as intended. Even now, these cigarette defendants continue to deny and conceal the facts that smoking cigarettes causes lung and throat cancer and other diseases and that nicotine is addictive and purposefully manipulated.</p> <p>First Amended Petition ("FAP") ¶ 3; <i>see also id.</i> ¶¶ 41, 48.</p>	<p>5/13/03 Tr. at 20; <i>see also id.</i> at 17-24.</p> <p>Today Philip Morris agrees with the overwhelming medical and scientific consensus that cigarette smoking is addictive. But that wasn't their position before.</p> <p>6/16/03 Tr. at 78; <i>see also id.</i> at 56, 81-84.</p>	<p>and so they didn't do that. Instead of doing that, they did something else... these products that were designed to intercept people who were trying to give up smoking are called light cigarettes and ultra light cigarettes, and I need to tell you about those briefly.</p> <p>Now, a light cigarette is also called a ventilation cigarette or a dilution cigarette, and it's called that for a reason . . . But what the documents show is that these companies knew that people don't smoke cigarettes like machines. They cover up these air holes. They suck harder to get more nicotine and therefore these products that were marketed in general to intercept smokers who wanted to quit were not really reducing their risk. So rather than produce the safer</p>	<p>promotional and advertising campaign intended to induce foreseeable users, particularly youths, to purchase their cigarettes. Such marketing and advertising occurred in printed media, on television, radio, on billboards and by other means. After 1969, the cigarette defendants issued informational literature and other writings, coupons, as well as coupons [sic] - for gifts and inducements intended to induce foreseeable users, particularly youths, to purchase their cigarettes.</p> <p>FAP ¶ 27.</p>	<p>collaboration with others in the tobacco industry to misrepresent facts constitute overt actions to keep the public ignorant of hazards associated with tobacco smoking.</p> <p>FAP ¶ 48; <i>see also id.</i> ¶¶ 3, 41.</p> <p>And then, of course, they edit the company documents to take out references to smoking and cancer. Directing the scientists what they can and cannot say in scientific documents. This has an impact. This has an effect on what the companies are allowed to do. It has an impact on what these scientists are allowed to do. I believe that the scientists working in these companies truly truly wanted to make safer products and they were prohibited from doing</p>	

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	<p>These companies knew from the time Linda Welch was two years old that cigarettes cause cancer. A researcher working for Reynolds that you'll hear about named Claude Teague in 1953 drew this conclusion, studies of clinical data tend to confirm the relationship between heavy and prolonged tobacco smoking and incidents of cancer of the lung. 1953. Studies of clinical data tend to confirm the relationship between heavy and prolonged tobacco smoking and incidents of cancer of the lung . . . Before she ever started smoking they knew they were in the business of lung cancer.</p> <p>5/13/03 Tr. at 11-12; <i>see also id.</i> at 6, 8, 17-19.</p> <p>[Plaintiff] was simply</p>		<p>cigarette, they produced these dilution cigarettes which are on the market today.</p> <p>5/13/03 Tr. at 27-28.</p>		<p>so by the lawyers.</p> <p>6/16/03 Tr. at 46-47; <i>see also id.</i> at 91-94, 98.</p>	

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	<p>one of many many victims of this cigarette society that was built through mass marketing and by the continual denial of the health risks by scientists and lawyers and executives of these companies.</p> <p>6/16/03 Tr. at 37; <i>see also id.</i> at 46-62, 69-74, 89.</p>					

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<p><i>Allen v. R.J. Reynolds Tobacco Co.</i>, No. 01-4319 (S.D. Fla.)</p> <p>Disposition:</p> <p>Defense verdict on for PM USA negligence, strict liability, failure to warn, and conspiracy to commit fraud (verdict - 2/28/03).</p> <p>Excerpts from the record in <i>Allen</i> that are cited in this chart are attached as Exhibit 15.</p>	<p>Early on, the Defendants, and other members of the Tobacco Industry, had actual knowledge that cigarette smoking was harmful, indeed lethal. The Defendants knew that the cause of multiple serious illnesses including lung cancer, other malignancies, and coronary artery disease were proximately caused by cigarette smoking.</p> <p>Am. Compl. ¶ 20; <i>see also id.</i> ¶¶ 22, 33-35, 65, 67, 69-71.</p> <p>You are going to see lots of stuff that the defendants knew about them knowing that cigarettes cause cancer, and they lied about it for years and years.</p> <p>2/4/03 Tr. at 13; <i>see also id.</i> at 15, 29, 31-32, 36, 45-46, 48, 50-51, 64.</p>	<p>The Defendants, as well as others in the industry, also knew, long before non-tobacco company scientists that nicotine was addictive.</p> <p>Am. Compl. ¶ 20; <i>see also id.</i> ¶¶ 29, 33-35, 65, 67, 71, 77.</p> <p>We know today that nicotine is the reason people smoke. These companies have know this for the last fifty years. The last fifty years, yet they denied it. They denied that nicotine was a drug.</p> <p>2/4/03 Tr. at 15; <i>see also id.</i> at 16, 48, 57-61.</p> <p>As recently as 1994, as you'll see in a moment before this deposition was taken, the CEOs, the chief executive officers of these companies went to Congress. They said under oath, the</p>		<p>The Defendants, R.J. Reynolds Tobacco Company and Phillip Morris, Inc., as part of this conspiracy, targeted teenagers, and intentionally planned to replace the attrition of older smokers.</p> <p>Am. Compl. ¶ 68; <i>see also id.</i> ¶¶ 14-19, 35.</p> <p>Experts will tell you in this case that most smokers begin smoking long before the age of eighteen. Long before the age of eighteen. Most become addicted and very few actually begin smoking after the age of twenty-five. These companies have known this for years and years. Their documents say so. They, specifically, sought out and targeted the youth.</p> <p>2/4/03 Tr. at 23; <i>see also id.</i> at 24, 67-69.</p>	<p>The Defendants had superior expert knowledge based on their secret industry research which was intentionally suppressed.</p> <p>Am. Compl. ¶ 72.</p> <p>How is it that Bob Allen and the rest of the millions of smokers out there are expected to know what these companies hid for all of those years, what the companies destroyed for all of those years? The documents they shredded, the documents they shipped overseas, the documents they never released to the public.</p> <p>2/27/03 Tr. at 82.</p>	

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	Folks, again, in-house, remember the 1961 Helmut Wakeham study? Carcinogens are found in every class of cigarette smoke. This is what they knew, this is when they knew it. When did they tell the public about it? It wasn't until 1998, Bob Allen, the public, and the millions and millions of other smokers out there, deserved to know the truth. 2/27/03 Tr. at 73; <i>see also id.</i> at 75-76, 78, 82.	question is this, "Every one of the chief executive officers of the tobacco companies stood up and swore under oath that nicotine was not addictive, correct? This is 1994." "That's my memory of what happened, yes." That was page 110. This is the actual memo that I read before from the lawyers . . . 2/27/03 Tr. at 63-64; <i>see also id.</i> at 65, 70, 72, 83, 97.		If you are doing focus groups on 12 and 14-year-olds and you're not asking them questions about vitamins or cereals or things of that nature, and you're asking them about tobacco, that's absolutely wrong. 2/27/03 Tr. at 70-71; <i>see also id.</i> at 47-58, 66-69, 76, 82, 96.		
Inzerilla v. Am. Tobacco Co., No. 011754/96 (N.Y. Super. Ct.) Disposition: Defense verdict for PM USA on failure to warn, fraud, negligence and strict liability claims (verdict - 2/20/03).	Defendants made certain claims and representations in its documents submitted to the government and to the public, through advertising, literature, . . . brochures, and other materials among which were that nicotine was not addictive and that smoking cigarettes did not present a health	As a direct result of Defendants' failure to properly and adequately warn that cigarettes were addictive and could be harmful to the health of the user and could cause cancer and other illnesses prior to 1969, Plaintiff's decedent was permanently addicted to cigarettes.	Then they went ahead and marketed light cigarettes. You don't have to quit, you can switch, use light cigarettes, but they never told anybody that light cigarettes are just as deadly and in many cases even more deadly. 2/19/03 Tr. at 3525-26; <i>see also id.</i> at 3559,	Defendants created and developed advertisements and/or promotions prior to 1961 for the purpose of inducing young people to commence smoking cigarettes. FAC ¶ 150; <i>see also id.</i> ¶¶ 151, 154-55. Philip Morris	They destroyed documents. They started a laboratory in Cologne, Germany, why? Because they didn't want to do it in the United States, because when they get those bad results, they want to make sure it is out of the country, outside of the subpoena power of the United States, and do	

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Excerpts from the record in <i>Inzerilla</i> that are cited in this chart are attached as Exhibit 16.	<p>risk.</p> <p>First Am. Compl. ("FAC") ¶ 175; <i>see also id.</i> ¶¶ 121-24, 129-36, 141-49, 211.</p> <p>Now, throughout the course of the trial, you will see, Philip Morris talks out of both sides of their mouth. On one hand, you will see that the decade they denied no proof that smoking causes lung cancer. No proof. They said in the 40's, 50's, 60's, 70's, 80's, not until the year 2000 did they say hey, maybe smoking does cause cancer. Let's learn what documents surfaced in the year 2000 that they changed their mind to come out. It was part of their strategy to come out.</p> <p>1/21/03 Tr. at 249; <i>see also id.</i> at 252, 254-55, 257-61, 263-64, 266, 270-71.</p>	<p>FAC ¶ 149; <i>see also id.</i> ¶¶ 108, 118-20, 126-28, 137-48, 172, 175-76, 179-80, 191 206-07, 210, 224, 244.</p> <p>They knew it and they designed it so that the right amount of nicotine would be in a cigarette to keep a smoker hooked. Cigarettes are addictive in the same sense as heroin and cocaine.</p> <p>1/21/03 Tr. at 267; <i>see also id.</i> at 266-68, 271-72.</p> <p>Why else, because cigarettes are addictive, nicotine is a red herring in this case. Nicotine is what keeps people smoking, they knew that, they knew that fact in 1959. Their own internal documents, nicotine is addictive, and they denied it, even up through 1994,</p>	3573-75, 3579-80, 3590.	<p>intentionally failed to warn in order to get new smokers. We are going to talk about youth smoking. They never marketed to youth? They only marketed towards adult smokers? They have admitted people start to smoke when they are kids, that is when people smoke. What do they think, they want us to think they are insulated baskets around all of the children around the world and all of this advertising is not going to them and only going to adults in their 30's and 40's. That is another lie.</p> <p>2/19/03 Tr. at 3561; <i>see also id.</i> at 3562-63, 3565-66, 3579, 3590.</p>	<p>it out of the country in Europe.</p> <p>2/19/03 Tr. at 3526; <i>see also id.</i> at 3549, 3570, 3583-84.</p>	

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	There is no dispute that cigarettes cause lung cancer, there was a dispute for half a century, for over 50 years, when the tobacco companies said we don't know, we're still doing studies. When we get the answer, we will tell you and that is what they told the public repeatedly over and over again to create a false controversy, to give smokers a self-rationale. 2/19/03 Tr. at 3526; <i>see also id.</i> at 3531-36, 3550-51, 3553, 3561, 3568, 3570-72, 3579, 3589-90.	we saw that, when they took a full page out in the New York Times, nicotine is not addictive. 2/19/03 at 3527; <i>see also id.</i> at 3530, 3543-44, 3547, 3551, 3558-59, 3572, 3580-81, 3590.				
Lucier v. Philip Morris Inc., No. 02AS01909 (Cal. Super. Ct.) Disposition: Defense verdict for PM USA on fraudulent concealment, fraud by false promise, fraud by	For years the cigarette defendants have known both about the carcinogenic and toxic properties of tobacco. Tobacco products have been shown to cause lung cancer since at least 1946, and the cigarette defendants have intentionally	One of the goals of the conspiracy described herein was to create a false controversy regarding the health hazards of tobacco use and the addictive properties of nicotine in order to protect the market for cigarette sales and the profits of	Cigarette Defendants in choosing an implied safety message within the said terms of "light", "ultra light" and "menthol" knew that said cigarettes did not deliver any less tar or nicotine than any other cigarette on the market and further	[Defendants' retail advertising was] made with the intention of inducing the public, with youth, minors, addicted persons, and ethnic minorities to purchase the cigarettes, including but not limited to the brands listed herein.	Cigarette defendants used lawyers to misdirect what purported to be objective scientific research to create favorable, and to suppress or destroy unfavorable, findings regarding the health consequences of	

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negligent misrepresentation, fraud by intentional misrepresentation, failure to warn, breach of warranty, negligence, and design defect claims (verdict - 2/7/03). Excerpts from the record in <i>Lucier</i> that are cited in this chart are attached as Exhibit 17.	conspired to mislead, deceive and confuse the government and the public, including plaintiffs, concerning the harmful and debilitating effects smoking has on the health of individuals, that nicotine in cigarettes is a powerfully addictive substance, and that defendants intentionally manipulate levels of nicotine delivery in cigarettes to ensure that smokers became and remain addicted. First Amended Complaint for Damages ("FACD") ¶ 2. Cigarette defendants herein and their trade associations, their lawyers, and persons and/or entities unknown to plaintiff . . . conspired . . . to intentionally suppress and/or conceal	the tobacco industry. FACD ¶ 10; <i>see also id.</i> ¶ 21. The nicotine in cigarettes is addictive, due to the pharmacological effect of nicotine. Cigarette defendants and co-conspirators have known this since at least the early 1960's . . . In furtherance of the conspiracy, cigarette defendants have controlled, and continue now to control nicotine content of their cigarettes, including by developing high-nicotine tobacco and blending of tobacco, and engineer their cigarettes to control nicotine delivery to the smoker, through adding ammonia and other substances, and through the use of reconstituted tobacco.	Cigarette Defendants through their own research learned that FDC ratings of cigarette nicotine and tar content were substantially understated. FACD at ¶ 132; <i>see also id.</i> ¶¶ 27, 91, 93, 117-24, 129-145. What the evidence will be is the low-tar cigarette was a total fraud and is a total fraud on the public. Because they are just as dangerous; they cause just as much illness in America; and the public is deceived about what is being accomplished. 11/7/02 Tr. at 2585; <i>see also id.</i> at 2588-89. Some researchers report that smokers of light cigarettes inhale as much tar and nicotine as from a full-flavor brand. The	FACD ¶ 107. The evidence will be that the cigarette companies knew for decades that their source of smokers were young people, that they targeted young people, because they needed new smokers because the old smokers died. 11/7/02 Tr. at 2544; <i>see also id.</i> at 2545, 2560, 2571-72. What do I mean by "despicable conduct"? Youth smokers. Let's take a step back. Who, as an ordinary person, would decide to hook children on cigarettes? Who would make that conscious decision? You are the community. Who would do that? Is that not malicious? Is that not oppressive? Is that not despicable? 1/30/03 Tr. at 10147;	smoking. To discourage meritorious litigation by plaintiffs injured due to tobacco, they engaged in "scorched earth" litigation tactics in combination with suppressing, destroying and distorting evidence. FACD ¶ 21. Cigarette defendants have squelched and kept secret information they had about the hazards of smoking to health, and about the addictive nature of nicotine and their manipulation of nicotine levels and delivery. <i>Id.</i> ¶ 37; <i>see also id.</i> ¶¶ 3, 19, 29, 71. All these documents that you're seeing have come out in the last four years. They were all hidden - - until about four years ago.	

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	<p>knowledge of the extent of the harmful effects of cigarette smoking from the public, the press, the government, including from plaintiff.</p> <p><i>Id.</i> ¶ 19; <i>see also id.</i> ¶¶ 10, 21, 90.</p> <p>You will hear that these defendants knew the truth. They knew that their product killed. But they never told anyone.</p> <p>11/7/02 Tr. at 2542.</p> <p>They knew, in 1962, it was overwhelming; they knew there was no evidence the other way. They never said a word to the American public. And Mr. Bible in 1998 said if one person dies from cigarette smoking, I would shut the company down. They knew in 1962 that they were killing people. They never told</p>	<p>They then concealed their knowledge of the addictive nature of nicotine and of their manipulation of nicotine levels and delivery. Cigarette defendants have denied . . . that they attempt to or do achieve levels of nicotine in their products to create or sustain addiction.</p> <p><i>Id.</i> ¶¶ 35-36.</p> <p>The cigarette defendants, at all times pertinent herein, failed to disclose to government and the consuming public, including plaintiff, that cigarettes were addictive.</p> <p><i>Id.</i> ¶ 90; <i>see also id.</i> ¶¶ 21, 82.</p> <p>These defendants have known for over half a century that cigarettes are addicting. Did they tell the public?</p>	<p>amount of tar and nicotine inhaled will be higher, for example -- and we'll talk about this in a second -- a smoker blocks ventilation holes, inhales more deeply, takes more puffs or smokes more cigarettes.</p> <p>1/30/03 Tr. at 10065.</p>	<p><i>see also id.</i> at 10148-59.</p> <p>And think about this, ladies and gentlemen: What if the truth were known in the '60s? What if they had said, "you know? Today's kids are tomorrow's customers; that's what we believe as a cigarette company." What if they had said that? How would people have reacted? Not well. Not well, I don't think.</p> <p>2/4/03 Tr. at 10477; <i>see also id.</i> at 10472-73, 10475-76, 10499.</p>	<p>11/7/02 Tr. at 2567; <i>see also id.</i> at 2542-44, 2554-56, 2583-84.</p> <p>You are some of the few people in the country who have seen the documentary evidence that's available. The documents that were hidden for decades. Decades. They knew. They knew it killed. They knew it caused cancer. They knew it addicted. They made a decision . . . In this case the decision was made: Money, death.</p> <p>1/30/03 Tr. at 10035; <i>see also id.</i> at 10036, 10131-34, 10139-41, 10159, 10164-65.</p>	

Case Name and Result	Adverse Health Effects of Smoking	Addiction and Nicotine Manipulation	Light and Low Tar Cigarettes	Youth Marketing	Concealment and Suppression of Research and Documents	Environmental Tobacco Smoke
	<p>anybody.</p> <p><i>Id.</i> at 2564; <i>see also id.</i> at 2542, 2551-52, 2561, 2563, 2565, 2573-74, 2590.</p> <p>They knew, from the 1950s, the dangers of cigarettes and actively deceived, concealed and lied.</p> <p>1/30/03 Tr. at 10159; <i>see also id.</i> at 10065, 10131-35, 10148-50, 10159, 10169-71, 10184.</p> <p>If nothing else, the defendants in this case are consistent. For 50 years they have taken the position, either surrogates, through their spokespeople: And we don't know what caused lung cancer. We don't know what cigarettes had to do with it; we don't know what's going on here. We don't know.</p>	<p>No. They lied and said they were not addictive.</p> <p>11/7/02 Tr. at 2542; <i>see also id.</i> at 2577-79.</p> <p>This is Exhibit 22.</p> <p>September 9, 1980.</p> <p>We can't defend continued smoking as, quote, free choice, close quote, if the person was, quote, addicted, close quote. Next exhibit. Exhibit 1. 1972. This is by Mr. Dunn of Philip Morris. Without nicotine, the argument goes, there would be no smoking. Some strong evidence can be marshaled to support this argument. The cigarette should be conceived not as a product but as a package. The product is nicotine. The cigarette. Think of the cigarette pack as a storage container for a day's supply of nicotine. Think of the</p>				

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	2/4/03 Tr. at 10458-59; <i>see also id.</i> at 10460, 10470.	<p>cigarette as a dispenser for a dose unit of nicotine. Think of a puff of smoke as the vehicle of nicotine.</p> <p>1/30/03 Tr. at 10089; <i>see also id.</i> at 10065.</p> <p>You heard the evidence in this case. They've spent years and millions developing this product. They know how to take the nicotine out. Reconstituted tobacco. They take all the solubles out. Take them all out. But they put them all back in. They put the nicotine right back in. Why? Because it is a nicotine-delivery device. And they manipulate it. Dr. Farone testified about this. He put chocolate in, licorice in to open up the airways so you get more into the lungs. That's what they do. They</p>				

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<p><i>Seal v. Philip Morris Inc.</i>, No. 00-21271 (Fla. Cir. Ct.)</p> <p>Disposition:</p> <p>Defense verdict for PM USA and B & W (verdict - 2/7/03).</p> <p>Excerpts from the record in <i>Seal</i> that are cited in this chart are attached as Exhibit 18.</p>		<p>engineer the product, as I said in the beginning of this argument: It's not that they just crumble up tobacco and put it in paper. We know now they don't do that. That's not what this is. This is a preplanned, preconceived, preordained idea to addict people.</p> <p>2/4/03 Tr. at 10467-68.</p>				<p>But the tobacco companies and the so-called experts they have hired will refuse to admit the role played by the product they make and sell. They will close their eyes to the role of cigarette smoke, despite the considerable evidence in the public domain that secondhand smoke aggravates asthma. They will deny or claim ignorance of the reports of our government agencies.</p> <p>2/4/03 Tr. at 342-43.</p>

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						<p>It is incredible that these lawyers can look you in the face and say that secondhand smoke does not aggravate or activate asthma, when the witnesses that they brought clear across the country to testify in court said the exact opposite.</p> <p>2/7/03 Tr. at. 1087; <i>see also id.</i> at 1086-92.</p>

Case Name and Result	Adverse Health Effects of Smoking	Addiction and Nicotine Manipulation	Light and Low Tar Cigarettes	Youth Marketing	Concealment and Suppression of Research and Documents	Environmental Tobacco Smoke
<p><i>Carter v. Philip Morris Inc.</i>, No. 4567 (Pa. Ct. Comm. Pl.)</p> <p>Disposition:</p> <p>Defense verdict for PM USA on negligence and products liability failure to warn claims as well as conspiracy (verdict - 1/26/03).</p> <p>Excerpts from the record in <i>Carter</i> that are cited in this chart are attached as Exhibit 19.</p>	<p>The purposes of the conspiracy were [t]o suppress intentionally and/or conceal knowledge of the harmful effects of cigarette smoking from the public, the press and the government, including plaintiff's decedent.</p> <p>Compl. ¶ 32(a); <i>see also id.</i> ¶¶ 35-37, 38(d).</p> <p>And, in fact, just about everybody had heard in the early 1950s that, hey, maybe cigarettes cause cancer. People had heard that, but hearing it and believing it are two different things. It took [a long time] before people believed it and the reason it took a long time before people believed it was because Philip Morris and the other cigarette companies started a scheme to create doubt. They created</p>	<p>The purposes of the conspiracy were to frustrate intentionally the flow of information from the medical and scientific community to the general public on the health risks and addictive nature of cigarettes.</p> <p>Compl. ¶ 32(b); <i>see also id.</i> ¶¶ 36(j), 37(b), 38(c), 39.</p> <p>This is 1963. Nicotine is addictive. They didn't tell people nicotine was addictive back then.</p> <p>1/9/03 Tr. at 687; <i>see also id.</i> at 690, 700.</p> <p>And then we get to the choice issue. Drug addiction. It would refer to the self administration of a psychoactive drug in a manner demonstrates that cigarette controls or strongly influences behavior. That's a</p>		<p>The purposes of the conspiracy were to sell knowingly and intentionally cigarettes to minors to ensure a future lucrative market for cigarettes as older smokers died.</p> <p>Compl. ¶ 32(f); <i>see also id.</i> ¶ 36(m).</p>	<p>There was also a longstanding "gentleman's agreement" among the manufacturers and other conspirators not to conduct and to suppress independent research on the issue of smoking and health.</p> <p>Compl. ¶ 35(h); <i>see also id.</i> ¶ 32(b), 37.</p> <p>They denied the truth to the public to make them think that cigarettes were safe to smoke and then they had a gentlemen's agreement. A gentlemen's agreement to a conspiracy not to do the research.</p> <p>1/9/03 Tr. at 688.</p> <p>All the companies turned over health to their lawyers. How crazy is that? Why do you do that? Because all of those documents that they had are marked <input type="checkbox"/> confidential,</p>	

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	doubt about the safety of cigarettes. 1/9/03 Tr. at 670; <i>see also id.</i> at 672-73, 675, 678-79, 683-84, 688, 698-700. Here they knew emphysema was going to kill millions of people. They were going to be in more trouble with that than lung cancer. We have this study that they did. 1/24/03 Tr. at 2496; <i>see also id.</i> at 2497-98, 2569-70, 2574, 2579.	definition, yes, that's right out of the Surgeon General's report. In other words, the individual is no longer entirely free to use or not use the substance. Do you agree with that? That is part of the definition of the potential loss of self control. Well, you see, that's what it caused. They knew it. I showed you a document from 1959 that said they knew it. 1/24/03 Tr. at 2574-75; <i>see also id.</i> at 2576-77.			they want lawyers to control. Not scientists. They don't want any of this to leak out to the public because if it did they would lose a lot of money. 1/24/03 Tr. at 2575-76.	
Conley v. R.J. Reynolds Tobacco Co., No. C 00-1740 (N.D. Cal.) Disposition: Prior to trial, court dismissed plaintiffs' survival and fraud cases of action in favor of PM USA. The case was tried	During the period of time Decedent was using the Defendants' tobacco products, Defendants represented that said products were safe for the use for which they were intended, and not addicting. Said representations were false and untrue in that all times herein relevant, cigarettes and	At all times herein relevant, the Defendants made representations to Plaintiffs' Decedent Frank Robert White as to the health hazards of smoking, the addictive nature of smoking, and other matters. These representations were of material facts and were, in fact, false. When Defendants	Dr. Benowitz will testify that low tar and filter cigarettes are not safer than regular cigarettes because of the phenomenon called compensation. This is the way they are used. The, quote, "low-yield cigarettes" are smoked faster and more often than the user would have smoked a regular cigarette. And the			

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<p>solely as a products liability claim. The court granted defendants' motion for judgment as a matter of law shortly before jury deliberations were to begin (motion granted - 1/10/03).</p> <p>Excerpts from the record in <i>Conley</i> that are cited in this chart are attached as Exhibit 20.</p>	<p>other tobacco products were not safe for their intended use, were addicting, and had dangerous properties and defects which threatened the life of Plaintiffs' Decedent, Frank Robert White. At all times herein relevant, Defendants have carried out a campaign designed to conceal from the public the true facts about cigarettes and tobacco products.</p> <p>Compl. at 5.</p>	<p>made the representations they knew the representations were false and had no reasonable grounds to believe they were true. The representations were made with intent to defraud and induce Decedent to purchase and use the tobacco products of Defendants.</p> <p>Compl. at 8.</p> <p>Dr. Benowitz will testify that tobacco companies have known a great deal about the effects of nicotine on the human body and the nicotine is essential to cigarette smoking. And they have known that since the 1930's. Tobacco companies have declared in their own internal documents that smoking is addictive, and we are in the business of selling nicotine, an</p>	<p>reason is they want to get the same amount of nicotine. They want to get the same nicotine fix. So the result of low-yield and filter cigarettes is that the person smokes the same, gets the same amount of nicotine and, of course, the same amount of tar and the other components of cigarettes that cause health damage.</p> <p>12/6/02 Tr. at 282.</p>			

Case Name and Result	Adverse Health Effects of Smoking	Addiction and Nicotine Manipulation	Light and Low Tar Cigarettes	Youth Marketing	Concealment and Suppression of Research and Documents	Environmental Tobacco Smoke
<p><i>Tucker v. Philip Morris Inc.</i>, No. 00-21905 (Fla. Cir. Ct.)</p> <p>Disposition:</p> <p>Defense verdict for PM USA and B & W on strict liability, breach of implied warranty of merchantability and fitness, and negligence claims (verdict - 10/4/02).</p> <p>Excerpts from the record in <i>Tucker</i> that are cited in this chart are attached as Exhibit 21.</p>		<p>addictive drug. They have known that since the '30's, the '40's, the '50's, '60's, the '70's, '80's. And now, only now in 1999, have some of the defendants admitted that nicotine - that cigarettes are addicting.</p> <p>12/6/02 Tr. at 281.</p>				<p>At all times material hereto, the Settling Defendants manufactured, distributed and sold cigarettes and knew or should have known that people in the immediate vicinity of cigarette users would inhale the smoke and be exposed to an unreasonable risk of harm. Compl. ¶ 18; <i>see also id.</i> ¶¶ 7(d), 19.</p> <p>The science was evolving. It first came out in the 1979 Surgeon General's Report, but the conclusion there was more study was</p>

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						<p>needed. Then the 1986 Surgeon General's Report came out, then the 1989 Surgeon General's Report came out. Then we finally had the 1992 EPA report that came out. So that now those four leading American doctors say there is no dispute in the scientific community that environmental tobacco smoke causes respiratory disease, including sinus disease. The only people on the face of the earth that deny that are the tobacco companies who are still denying that regular smoking causes anybody any harm.</p> <p>10/3/02 Tr. at 1715.</p>
<i>Janoff v. Philip</i>					The evidence that	At all times material

Case Name and Result	Adverse Health Effects of Smoking	Addiction and Nicotine Manipulation	Light and Low Tar Cigarettes	Youth Marketing	Concealment and Suppression of Research and Documents	Environmental Tobacco Smoke
<p><i>Morris Inc.</i>, No. 00-3153 (Fla. Cir. Ct.)</p> <p>Disposition:</p> <p>Defense verdict for PM USA and B & W on ETS claims (verdict - 9/5/02).</p> <p>Plaintiff has subsequently been granted a new trial, although no date has been set.</p> <p>Excerpts from the record in <i>Janoff</i> that are cited in this chart are attached as Exhibit 22.</p>					<p>they'll bring, they thought about this, they had a meeting. There's a document. They said in the mid '80s, we're going to develop an action plan to deal with this, smoking on airlines. They didn't tell anybody this. They didn't tell anybody what they were up to. And the action plan was to focus on cabin environment and not environmental tobacco smoke.</p> <p>8/23/02 Tr. at 607-08; <i>see also id.</i> at 599-614.</p> <p>And as I said to you, this is not an industry that just sits around North Carolina selling cigarettes. This is an industry that has an action plan. And remember, it's look here, don't look here. Focus the debate on cabin air quality and ventilation, not</p>	<p>hereto the Settling Defendants² knew or should have known that their cigarettes were inherently defective, ultra hazardous, deleterious, poisonous and otherwise harmful to smokers and to those persons in the immediate vicinity of the cigarette smoke.</p> <p>Compl. ¶ 19; <i>see also id.</i> ¶¶ 7, 15, 16.</p>

² Plaintiffs' use of the term "settling defendants" refers to the tobacco industry's 1997 settlement with a class of non-smoking flight attendants known as the *Broin* class. Pursuant to the *Broin* settlement agreement, the class was disbanded and individual class members retained the right to file any claims defendants related alleged environmental tobacco smoke exposure in airline cabins against tobacco company defendants.

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<p><i>Tune v. Philip Morris Inc., No. 97-4678 (Fla. Cir. Ct.)</i></p> <p>Disposition:</p> <p>Defense verdict for PM USA on conspiracy, strict liability, and negligence claims (verdict - 5/24/02).</p> <p>Excerpts from the record in <i>Tune</i> that are cited in this chart are attached as Exhibit 23.</p>	<p>The conspirators agreed among themselves to positively and intentionally assert to plaintiff, in a manner not warranted by the information possessed by the conspirators, that it was safe for plaintiff to smoke cigarettes while the conspirators knew it was unsafe to do so. Additionally, the conspirators suppressed medical and scientific data and other knowledge regarding health hazards and the addictive properties of their cigarettes and</p>	<p>Addiction to nicotine alters the smoker's decision making process and eliminates his ability to have complete freedom of choice regarding whether or not to continue smoking. The addiction may be unconscious. The effects of nicotine are similar to cocaine, morphine and amphetamines.</p> <p>FAC ¶ 57; <i>see also id.</i> ¶¶ 42(k), 45.</p> <p>Back in 1959 a Philip Morris document indicates that one of the reasons why</p>	<p>Defendants and their co-conspirators individually and collectively agreed to make and intentionally made false statements, ... or alternatively they made the statements without knowledge of the truth or falsity of the statements under circumstances where they should have known that the statements were false and would influence plaintiff's detrimental smoking behavior [including]: "Low tar cigarettes are healthier than other brands."</p> <p>FAC ¶ 42(i); <i>see also id.</i> ¶ 45(f).</p>		<p>Eventually they started to do some research, but they didn't tell anybody what they found. They were afraid that if they proved that cigarettes caused cancer, it would be used against them.</p> <p>5/8/02 Tr. at 35.</p>	<p>environmental tobacco smoke. And they don't want you to look at ETS, look at anything else, look at dust mites, the dust, the dry air. Look here, but don't look at their product.</p> <p>9/4/02 Tr. at 2838; <i>see also id.</i> at 2828-36.</p>

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	<p>they thereby caused plaintiff to be and remain ignorant thereof.</p> <p>First Amended Complaint ("FAC") ¶ 36; <i>see also id.</i> ¶¶ 33-34, 39, 42, 44.</p> <p>One of the issues in this case was, was it reasonable at the time for Philip Morris to say cigarettes are not injurious to your health, and we're going to prove a conspiracy among the cigarette companies that began back in the early 1950s. And you'll see the agreement where they promised to do research in 1954. Eighteen months earlier Philip Morris had put that research at low priority. They were afraid that if they proved that cigarettes caused cancer, that it would be used against them and the</p>	<p>people smoked was addiction in 1959. They never told anybody back in the '50s or '60s that cigarettes were addictive and that they never warned anybody.</p> <p>5/8/02 Tr. at 42.</p> <p>One of the things that they did is they would manipulate the pH of the smoke and the ingredients. They wanted the cigarette to deliver more nicotine.</p> <p>5/8/02 Tr. at 42-43.</p> <p>There was an intent on Philip Morris and these other companies to addict people to cigarettes knowing that they contained all sorts of potent carcinogens, which they didn't tell anybody.</p> <p>5/22/02 Tr. at 2157; <i>see also id.</i> at 2174-76, 2190-92.</p>	<p>Of course they knew about compensatory smoking where you really get the same, no matter what cigarette you smoke. I showed you this drawing in opening, remember with the vent holes. You know what happened was they created this smoking machine for the FTC that measured tar and nicotine, and then they started putting more holes in it so they can show a decline in the tar nicotine levels. Ladies and gentlemen, I mean all they did was put holes in the paper and when people smoked, they could cover them up. They do it consciously or unconsciously, but they get the tar and nicotine that they want out of it. It doesn't make any difference. It's fraud. It is nothing but a fraud. They</p>			

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	<p>companies knew that if any one of the companies said, oh cigarettes cause cancer, that it would have harmed all of them.</p> <p>5/8/02 Tr. at 35; see <i>also id.</i> at 32-39.</p> <p>They committed fraud. I know fraud is a strong word, but there is strong proof. And the fraud was that they misrepresented to people back then that it was safe to smoke.</p> <p>5/22/02 Tr. at 2151; see <i>also id.</i> at 2144-80, 2185-89.</p>	<p>They manipulated the delivery of nicotine to keep people addicted.</p> <p>5/22/02 Tr. at 2176, 2190-92.</p>	<p>knew it.</p> <p>5/22/02 Tr. at 2176; see <i>also id.</i> at 2190-93.</p>			
<p>Hyde v. Philip Morris Inc., No. 97-359ML (D.R.I.)</p> <p>Disposition:</p> <p>Defense verdict for PM USA on failure to warn claim (verdict - 3/21/02).</p> <p>Excerpts from the record in <i>Hyde</i> that are cited in this chart are</p>	<p>The civil conspiracy existed at all times material to this lawsuit, and continues to exist at the present time. The primary goal of the conspiracy was to deprive smokers of defendant's cigarettes, such as the decedent, of accurate information concerning the true health dangers of</p>	<p>[T]he purposes of the conspiracy were . . . [t]o intentionally frustrate the flow of information from the scientific and medical community to the general public on the health risks and addictive nature of smoking.</p> <p>AC ¶ 4.3; see <i>also id.</i> ¶¶ 3.2.12, 4.5., 4.5.18.</p>	<p>Defendant's cigarette products failed to contain sufficient instructions for use or for safer use, including but not limited to . . . directions regarding the uncertainty of health gains in low yield (CO, tar, and/or nicotine) cigarettes.</p> <p>AC ¶ 3.1.5.7; see <i>also id.</i> ¶¶ 3.1.4, 3.1.5.3,</p>	<p>[T]he purposes of the conspiracy were . . . [t]o knowingly and intentionally sell cigarettes to minors to ensure a future lucrative market for cigarettes as older smokers died.</p> <p>AC ¶ 4.3.6; see <i>also id.</i> ¶ 4.5.17.</p>	<p>[T]here was also a longstanding "gentlemen's agreement" among the manufacturers and other conspirators to not conduct and to suppress, independent research on the issue of smoking and health.</p> <p>AC ¶ 4.5.8; see <i>also id.</i> ¶ 4.5.11.</p>	

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attached as Exhibit 24.	<p>smoking . . .</p> <p>Amended Complaint (“AC”) ¶ 4.2; <i>see also id.</i> ¶¶ 4.1, 4.5.10, 4.5.11.</p> <p>There’s probably 30 or 40 key records that you’ll be focusing on and seeing in this case; and basically what the records are going to show, I believe the evidence will be, that you’ll see . . . that Philip Morris in these documents will show that cigarettes caused harm, and this was known to them in the 1950s, and that was not known to Walter Hyde.</p> <p>3/5/02 Tr. at 21; <i>see also id.</i> at 22, 25.</p> <p>In fact, instead of there being warnings about the dangers of cigarettes and cigarette-caused illnesses during this period of time, what</p>	<p>I believe the evidence will be, that you’ll see that nicotine was known to Philip Morris in the 1950s as an addictive drug and they knew they were including it in their Marlboro cigarettes and selling it to the public and the public didn’t know that, Walter Hyde didn’t know that . . .</p> <p>3/5/02 Tr. at 21. <i>see also id.</i> at 22-23, 25, 38.</p>	<p>3.1.5.5-7, 3.1.6.1-2, 3.1.6.4.</p>	<p>The records are going to show you that young people under age 18 are the ones who usually start smoking, overwhelmingly are the ones who start smoking, below 18 and the teen years.</p> <p>3/5/02 Tr. at 21.</p> <p>You’ll see this Chapter 14. It talks about the age -- this is in 1964, an analysis of how people start smoking. “As far as is known from actual data, few children smoke before the age of 12, probably less than 5 percent of the boys and less than 1 percent of the girls. From age 12 on, however, there is a fairly regular increase in the prevalence of smoking. At the 12th grade level, between 40 to 55 percent of children have been found to be smokers.” It goes on to discuss</p>	<p>Now, this story starts early in the 1930s. The records will show you that Philip Morris was actually engaged at that time in research efforts and consciously were arguing with the researchers to make sure that they did not disclose any documents unless Philip Morris explicitly agreed to that disclosure prior to a disclosure.</p> <p>3/5/02 Tr. at 22.</p>	

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	<p>did Philip Morris do? It actually vigorously objected, vigorously denied that there was any health effects; and that's clearly set forth in that frank statement where they take issue with the health effects of cigarette smoking. Instead of a warning, a denial. Instead of testifying, silence.</p> <p>3/20/02 Tr. at 44; <i>see also id.</i> at 48, 52, 65.</p>			<p>later levels.</p> <p>3/20/02 Tr. at 47.</p>		
<p><i>In Re Tobacco Litig.: C. Blankenship/J. McCune</i>, No. 2:97-0204 (S.D. W. Va.)</p> <p>Disposition:</p> <p>Defense verdict for PM USA and B & W on strict liability and negligence (verdict - 11/14/01).</p> <p>Excerpts from the record in <i>In Re Tobacco</i> that are cited in this chart are attached as Exhibit 25.</p>	<p>The Defendants have known for decades of the lethal dangers of smoking their cigarette products. By the late 1930s, based on public research, the Tobacco Companies had notice of the potential health hazards presented by smoking cigarettes. In 1946 Tobacco Company chemists themselves reported concern for the health of smokers. A 1953 report by Dr. Ernst L. Wynder heralded to the scientific</p>	<p>Despite the recent recognition of nicotine's addictive properties by these and other organizations, the Tobacco Companies and their Distributors continue to misinform the American public in general and the West Virginia residents who are Members of this Class. Although it now appears that the Tobacco Companies have known for decades, in the basis of their own long-</p>	<p>What do the defendants say now? R.J. Reynolds, Dr. deBethizy, you will recall: So what we are communicating to smokers is that there is no safe cigarette. Lorillard, Orlowsky: Are low tar cigarettes in your view any safer to smoke than high tar? Not in my view, no. 11/12/01 Tr. at 6353.</p>		<p>Since at least 1954, when the Tobacco Industry Research Committee (later the Council for Tobacco Research) and the Tobacco Institute were formed, the Tobacco Trade Associations and Tobacco Consultants have agreed to cooperate with each other to suppress scientific information regarding the dangers of cigarette smoking and to publish information suggesting that</p>	

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	<p>community, and to the Tobacco Companies, a definitive link between cigarette smoking and cancer.</p> <p>Compl. ¶ 37; <i>see also id.</i> ¶¶ 32, 127.</p> <p>This is actually an interview by Ted Koppel, the guy with the -- can't get the part right on his hair. But you know how you always ask straightforward, direct questions: Mr. President, is it or isn't it? Well, he was interviewing an executive of R.J. Reynolds, and he said: Cigarette smoking does not cause cancer; yes or no? Ted wants a yes or no. And what Reynolds -- 1984 -- It is not known whether cigarettes cause cancer. All right. Cigarette smoking, no causal relationship between cigarette smoking and</p>	<p>concealed research and testing, that nicotine is addictive, they have denied, and continue to deny, that nicotine is addictive.</p> <p>Compl. ¶ 56; <i>see also id.</i> ¶¶ 32, 42-43, 57-72, 74-77, 81, 84, 90, 104-05, 112, 124-25, 128, 130.</p> <p>Related alkaloids and probably other compounds with desired physiological effects are also present in tobacco and/or its smoke. And/or its smoke. Nicotine is known to be a habit-forming alkaloid, hence the confirmed user of tobacco products is primarily seeking the physiological satisfaction derived from nicotine, and perhaps other active compounds. They knew why they were designing their cigarettes. 9/10/01 Tr.</p>			<p>cigarette smoking is not unduly hazardous.</p> <p>Compl. ¶ 127; <i>see also id.</i> ¶¶ 129-30.</p> <p>Remember, I told you that they wanted to be sure that their research would never show what the stuff in these cigarettes would really do to people. They wanted the research to be about anything but that; and that they wouldn't spend money trying to eliminate the hazardous substances to make safer cigarettes and do the research to see if they could do that.</p> <p>9/10/01 Tr. at 562; <i>see also id.</i> at 563-65, 577-80.</p> <p>Dr. Osdene, ship all documents to Cologne. Keep it in clone. It's okay to phone me and telex and I will destroy it.</p>	

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	<p>emphysema? 1984. What does the executive say on Nightline? Despite all of the research to date, there has been no causal link established.</p> <p>9/10/01 Tr. at 544-45; <i>see also id.</i> at 546-48, 554-56, 558, 569, 573-74, 598.</p> <p>And think about it. Think about the '50s, the '60s, the '70s and the early '80s, here, deny the problem. That's number one what you do if you're Lorillard. Is it your view that smoking has been proven to cause lung cancer in any individual? No that's not my view. I don't think that's been proven to cause lung cancer. All right, has it been proven to cause emphysema. I don't believe so. That was the deposition of the CEO Spears in 1997. 1997. You talk about negligence, the failure</p>	<p>at 538-39; <i>see also id.</i> at 537, 571, 576-77.</p> <p>Even Dr. de Bethizy, RJR's stewardship witness, admitted that what he did was to test nicotine most of the time, and the delivery of it, to make sure you didn't get too much. Think of the cigarette pack as a storage container for a day's supply of nicotine. Cigarette as a drug administration system. Thus we have an emerging picture of a fast, highly pharmacologically effective and cheap drug, tobacco, which also confers flavor and manual and oral, bla, bla, bla, and it's cheap and all that. They knew what they were doing. They knew it all along.</p> <p>11/12/01 Tr. at 6407; <i>see also id.</i> at 6414.</p>			<p>11/12/01 Tr. at 6367; <i>see also id.</i> at 6370, 6373, 6376, 6414-15.</p>	

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	-- I mean, the head of the company doesn't even want to admit that they have got a problem in '97. 11/12/01 Tr. at 6356-57; <i>see also id.</i> at 6358-59, 6360-61, 6377, 6382, 6406, 6408-12; 11/13/01 Tr. at 6615.					
<i>Tompkin v. Am. Brands, Inc., No. 5:94CV1302 (N.D. Ohio)</i> Disposition: Defense verdict for PM USA and B & W on strict liability, negligent, willful and wanton misconduct, fraud and misrepresentation, breach of express warranty, breach of implied warranty, conspiracy, wrongful death, and loss of consortium claims (verdict - 10/5/01).	During all times relevant to this action, Defendants knew or should have known that the inhalation of cigarette smoke by David Tompkin could result in cancer, heart disease, and other adverse health consequences... The Defendants engaged in negligent, willful and wanton misconduct in failing to adequately warn of the adverse health consequences of cigarette smoking. Third Amended Complaint ¶¶ 19, 21;					

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<p>Excerpts from the record in <i>Tompkin</i> that are cited in this chart are attached as Exhibit 26.</p>	<p><i>see also id.</i> ¶¶ 21-24, 36, 39.</p> <p>[I]n fact, David Tompkin smokes until 1965 when he quits. Are there any warnings ever? No. Are there any instructions? No. Anything that would alert their people? No.</p> <p>9/25/01 Tr. at 301; <i>see also id.</i> at 294, 297, 314, 316, 324-25.</p> <p>And you remember Wynder and Graham and Doll and Hill? Remember the rat and mice experiments where they painted tar on the mice's backs?</p> <p>...</p> <p>That was the science that the cigarette companies all had. Yet, no warning, not even a little warning, not even a little warning saying, "you know, there's some bad studies coming</p>					

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	out. We're going to check them further and try to get to the bottom of them, but we want you to be aware of them." There was nothing. 10/5/01 Tr. at 1822-23; <i>see also id.</i> at 1825, 1838.					
Mehlman v. Philip Morris Inc., No. L-1141-99 (N.J. Super. Ct.) Disposition: Complete defense verdict on for PM USA strict products liability, fraud/constructive fraud, breach of implied warranty, consumer protection, negligence, gross negligence, and civil conspiracy (verdict - 5/16/01). Excerpts from the record in <i>Mehlman</i> that are cited in this	Defendants have known since before 1950 of the lethal dangers of smoking their cigarettes, including the danger of addiction and the definitive link between cigarette smoking and cancer. Despite this knowledge, the Defendants not only failed to warn their consumers, including the Decedent, but instead actually engaged in concerted efforts to suppress research, thwart legislation and regulatory control and communicate false information regarding	Upon information and belief, the tobacco companies, including specifically defendants Philip Morris and RJ Reynolds, have long known of the addictive properties of the nicotine contained in the cigarettes they manufacture and sell. Yet, to this day, the defendants have deliberately failed to warn their new consumers that cigarettes were highly addictive and that a newly addicted or habituated smoker may find it very difficult, if not impossible, to stop smoking after having		The defendants intentionally targeted the cigarette advertising and "health controversy" campaigns and marketed cigarettes to Mrs. Mehlman when she was under 18 years of age. Compl. ¶ 27; <i>see also id.</i> ¶ 26. Had a warning been given in 1950 prior to cigarette smoking becoming so ingrained and accepted in the public eye, Connie Lloyd and millions of other teenagers may have never begun	Defendants and their agents, aiders, abettors and co-conspirators had sole access to material facts regarding the addictive, carcinogenic and pathologic qualities of cigarettes, their strategy and efforts to market cigarettes to minors, their manipulation of pharmacologically active nicotine in cigarettes, the development, manufacture and sale of less hazardous cigarettes, the status, purpose and activities of the Council for Tobacco Research, the	

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chart are attached as Exhibit 27.	<p>such risks for the sole purpose of creating confusion over the issue of the health risks of smoking.</p> <p>Compl. ¶¶ 11, 12; <i>see also id.</i> ¶¶ 21, 69, 76, 96, 106.</p> <p>You are going to hear evidence of how they continued to deny the relationship between smoking and disease and how that affected people who smoked about, is it okay to smoke?</p> <p>4/4/01 Tr. at 540; <i>see also id.</i> at 541-52, 557-59, 564.</p> <p>If the defendants had admitted that cigarette smoking could cause cancer, perhaps the entire perception of cigarette smoking would have been different over the course of time.</p> <p>5/8/01 Tr. at 3985-86;</p>	<p>taken up the practice. Instead, the defendant tobacco companies developed new and more sophisticated methods of "hooking" Mrs. Mehlman and others like her - - and keeping them hooked - - all to boost cigarette sales.</p> <p>Compl. ¶ 24; <i>see also id.</i> ¶¶ 11-12, 25, 69, 76, 96.</p>		<p>smoking.</p> <p>5/8/09 Tr. at 3985.</p>	<p>state of scientific knowledge about the health hazards of smoking and the control by tobacco industry "lawyers" of the affairs of the tobacco industry. Defendants and their agents, aiders, abettors, and co-conspirators affirmatively concealed these material facts from Decedent Constance Mehlman.</p> <p>Compl. ¶ 76.</p>	

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	<i>see also id.</i> at 3987-4003.					
<p><i>Fontana v. Philip Morris Inc.</i>, No. 00-1731 (Fla. Cir. Ct.)</p> <p>Disposition:</p> <p>Defense verdict for PM USA and B & W (verdict - 4/5/01).</p> <p>Excerpts from the record in <i>Fontana</i> that are cited in this chart are attached as Exhibit 28.</p>						<p>Said Settling Defendants manufactured, sold and distributed cigarettes in a defective state. The cigarettes manufactured, distributed, and sold by said Settling Defendants were unreasonably dangerous to bystanders who would be in or around the vicinity of the cigarette smoke. The cigarettes were manufactured defectively and were unreasonably dangerous at the time the cigarettes left the manufacturers' possession.</p> <p>Compl. ¶ 7(a); <i>see also id.</i> ¶¶ 7(b)-(d), 18-21.</p> <p>But as years went by, more and more became known about secondhand tobacco smoke. We learned</p>

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						<p>about the harmful effects of secondhand tobacco smoke on human health. And it's only just recently that the tobacco companies in this trial finally stopped denying that direct tobacco smoke caused pulmonary illness and disease. Now, armed with the knowledge that direct tobacco smoke can and does cause respiratory disease, we will prove in this trial that secondhand smoke causes the very same diseases, too</p> <p>3/20/01 Tr. at 436-37; <i>see also id.</i> at 424-25, 429-30.</p> <p>Because as the witness for the tobacco industry, they can't be intellectually honest with you. They can't come in and say, environmental tobacco smoke does cause disease in healthy</p>

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						nonsmokers -- just as 50 years ago the industry was saying it hasn't been proven that cigarettes cause disease, it's just the same thing again. It's deja vu all over again. They're not saying, well, environmental tobacco smoke, it hasn't been proven yet, that environmental tobacco smoke causes disease. 4/4/01 Tr. at 2868; <i>see also id.</i> at 2865-66, 2870-72, 2896-98, 2903-04, 2917-18, 3037
<i>Apostolou v. Am. Tobacco Co.</i> , No. 02-01836 (Fla. Cir. Ct.) Disposition: Defense verdict for PM USA and B & W on fraud, negligence and strict liability (verdict - 1/11/01). Dismissal by court of	The tortious conduct includes but is not limited to, an agreement made in 1954 and continuing to this date that was approved, supported, sanctioned, and endorsed by each defendant herein, to deny that cigarettes were a hazard to health, refute studies	[E]ach defendant manufacturer and defendant CTR and defendant TI, made claims and representations in its documents submitted to the government and to the public, that nicotine was not addictive and that smoking cigarettes did not present a health	We say they concealed information from the public. We say they concealed the fact that they knew that the low-tar cigarettes are no safer. 1/10/01 Tr. at 6846; <i>see also id.</i> at 6883-85, 6908, 6931-45, 6948-61, 6970-71, 6979.	This is offered to show two things: Proof of the conspiracy that they are carrying out what they plan to do in 1954 to deny, to deny, to deny. And number 2, to show you that they'll stoop to any level to carry out that conspiracy. They will perpetrate it on fourth graders. It's	Each defendant manufacturer, defendant CTR, and defendant TI thereafter suppressed, ignored and disregarded test results not favorable to the tobacco industry and results that demonstrated that cigarettes caused addiction, cancer, and other serious illnesses.	

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<p>plaintiff's aiding and abetting and misrepresentation claims.</p> <p>Excerpts from the record in <i>Apostolou</i> that are cited in this chart are attached as Exhibit 29.</p>	<p>and claims that cigarettes were a hazard to health and to dilute warnings concerning smoking.</p> <p>Amended Complaint ¶¶ 135; <i>see also id.</i> ¶¶ 137, 140, 170, 176-77, 180, 190.</p> <p>One of course we know is when -- excuse me, not when but that cigarette smoking causes cancer, but now we're going to learn as we have been talking about when they had that information. Now, in addition to that -- and by the way what they did with that information, did they come out and tell the world, "My goodness, we just discovered nitrosamines. Don't smoke." Did they say that prior to 69? We're going to learn the answer to that question. And I think you probably all know</p>	<p>risk.</p> <p>Amended Complaint ¶¶ 184; <i>see also id.</i> ¶¶ 137-38, 180, 187-88, 190.</p> <p>But if you take that carcinogen and now you add to it and you manipulate nicotine to keep a smoker hooked, now you've got the formula for death. And that ladies, and gentlemen, is what the manufacturers, the tobacco companies developed; studied, manufactured, sold a formula for death. And the outrageous part is they knew what they were doing, they knew exactly what they were doing.</p> <p>11/27/00 Tr. at 1965; <i>see also id.</i> at 1968, 1971, 1988-90, 2001-02, 2007-08, 2010-11, 2017.</p> <p>We now have in this trial, and we've all</p>		<p>despicable.</p> <p>1/10/01 Tr. at 6902, 6963-67, 6970-71.</p>	<p>Amended Complaint ¶¶ 180.</p>	

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	<p>the answer to that question, and it's a big N-O.</p> <p>11/27/00 Tr. at 1963; <i>see also id.</i> at 1965, 1968, 1972, 1988-90, 1997, 2001-02, 2005-07, 2014, 2017.</p> <p>See, certain companies would take the path that, wait a minute hold, stop. Let's not, let's not continue promoting this until we get to the bottom of it. Because we're not talking about somebody getting dandruff from a product; we're talking about cancer and people dying. So let's act as a reasonably prudent company would act. Let's pull back, let's say wait a minute, the proof's not in. Don't smoke our stuff yet. Wait until we get the proof. Wait till we give you the green light that it's okay because we don't</p>	<p>heard it, an admission that cigarettes are addictive. They will admit it not one person got up and said cigarettes are not addictive they will not admit it. Now they admit it.</p> <p>1/10/01 Tr. at 6836; <i>see also id.</i> at 6879, 6923-24, 6961-62, 6972-74, 6978-79, 7005-06.</p>				

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	want to risk it. There's information out there, there's information that smoking our product will kill you. So be cautious. Did they do that? Absolutely not. 1/10/01 Tr. at 6787-88; <i>see also id.</i> at 6794-95, 6797-99, 6805, 6814, 6816, 6819, 6821-24, 6828-29, 6832-33, 6849, 6877, 6901, 6906, 6948-52, 6985.					.
<i>Butler v. Philip Morris, Inc., No. 94-553 (Miss. Cir. Ct.)</i> Disposition: Defense verdict for PM USA and B & W on strict liability and negligent failure to warn claims (verdict - 6/2/99). Excerpts from the record in <i>Butler</i> that are cited in this chart are attached as Exhibit 30.	With respect to the health dangers caused by cigarettes, however, the Defendants engaged in efforts to conceal this knowledge from the public and affirmatively mislead the public -- despite the Defendants having publicly promised and accepted an interest in the public's health as "a basic responsibility paramount to every other consideration in our business."	Although publicly denying the addictive effects of nicotine, certain of the defendants manipulated and/or caused to be manipulated the amounts of nicotine in and released by for the purpose of causing and sustaining addiction. TAC ¶ 17; <i>see also id.</i> ¶¶ 14, 54(e)		The Defendants purposefully targeted minors for the marketing, sale and use of cigarettes. TAC ¶ 18; <i>see also id.</i> ¶ 19.	The defendants worked, or knowingly aided and abetted or conspired in the working of a fraud on the public in general and Burl Butler in particular, by intentionally, without limitation, failing to disclose, suppressing, misrepresenting, omitting, concealing, and/or publicly denying information concerning the fact that Environmental Tobacco Smoke was dangerous and a	Representations of the Defendants that Environmental Tobacco Smoke was not dangerous and not a potential human carcinogen were false when made and the Defendants knew or were reckless in not knowing that they were false. TAC ¶ 42; <i>see also id.</i> ¶¶ 6, 8, 9, 11-14, 21, 40-43. Now, you've heard them say mainstream

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	<p>Third Amended Complaint ("TAC") ¶ 14, <i>see also id.</i> ¶¶ 1, 9, 11-12, 15, 23(b), 40-43.</p> <p>And I'm talking about every surgeon general since 1964, regardless of whether there was a Republican or Democrat in the White House that appointed him, the American Medical Association, the American Lung Association, American Cancer Society, a host of other federal agencies, they've all concluded that cigarette smoking causes cancer. They've all concluded that.</p> <p>These tobacco companies, who didn't do the research, didn't test their product, they concluded otherwise. They concluded that it doesn't cause cancer.</p> <p>5/11/99 Tr. at 560.</p>				<p>potential human carcinogen.</p> <p>TAC ¶ 40.</p>	<p>smoke is different from sidestream smoke. Let's talk about that. Our proof is going to be there's not a dime's difference between the two, and if you think about it, one of the reasons they say mainstream smoke is different is because of a filtered cigarette.</p> <p>5/11/99 Tr. at 554; <i>see also id.</i> at 555-67.</p> <p>[I]s it any surprise that they come into the courtroom and will not admit that environmental tobacco smoke is even a risk factor for lung cancer? No, it's no surprise. Because if they admitted that environmental tobacco smoke was a risk factor, how would it make their cigarette smoke look? They can't do that.</p> <p>6/2/99 Tr. at 4397; <i>see also id.</i> at 4404-06,</p>

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<i>Dunn v. RJR Nabisco Holdings Corp.</i> , No. 18D01-9305-CT-06 (Ind. Super. Ct.) Disposition: Defense verdict for PM USA and B & W on failure to warn, fraud and misrepresentation, negligence, strict liability, negligent design and research claims (verdict - 3/19/98). Excerpts from the record in <i>Dunn</i> that are cited in this chart are attached as Exhibit 31.	The defendants have been and are committing fraud. From the 1950's onwards, the defendants knew that cigarette smoke was hazardous. Since the 1950's, the defendants have asserted nationwide that cigarette smoke does not have a link to health hazards. The defendants have told the public in general, and Mildred Wiley in particular, that cigarette smoke was not harmful. The defendants procured money by their fraud and misrepresentation to the public. Am. Compl. ¶ 26; <i>see also id.</i> ¶¶ 21-29. These cigarette companies sit here today shamefully, with the exception of two, and who recently admitted it. The rest	Until last week cigarette companies in the United States, until literally last week, until January 29th, 1998, for 50 years every cigarette company in this courtroom, except one, Liggett, every cigarette company denied that nicotine was addictive. They said cigarettes are no more addictive than Gummy Bears. Than carrots . . . That's what they told the public. They took out ads saying it's not addictive. In Europe they compared secondhand smoke to peanut butter cookies . . . They said, boy, if the public only knew how addictive nicotine was, the free choice and free will that we talk about would be eliminated. 2/10/98 Tr. at 464-65; <i>see also id.</i> at 419-20, 462-63, 467.			Research which might tend to prove smoking a cause of illnesses was diverted into "special projects" and intentionally shielded by the attorney-client privilege so as to prevent its disclosure. Despite the Cigarette Companies' promises to engage independent researchers to explore the dangers of cigarette smoking and to publicize their findings, the research was not independent and potentially adverse results were shielded under the caption of "special projects" and the attorney-client privilege was intentionally employed to guard against such unwanted disclosure. The promise of full disclosure was never meant to be honored and never was. Am. Compl. ¶ 25.	4495-97. Even after the Cigarette Companies knew or should have known of the unreasonably dangerous and defective nature of cigarettes and the hazards associated with ETS, the Cigarette Companies wantonly and willfully persisted in manufacturing and selling these products in an unreasonably dangerous and defective condition. Am. Compl. ¶ 20; <i>see also id.</i> ¶¶ 18, 21. In the 1980s, 30 years later, RJ Reynolds launched an ad campaign saying secondhand smoke is not dangerous. In 1990 they said secondhand smoke, it's a myth that secondhand smoke hurts people.

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	<p>of them deny, even as you sit here today, that cigarette smoke has killed a single smoker in America. Not one.</p> <p>2/10/98 Tr. at 415; <i>see also id.</i> at 431-35, 462-65, 471.</p> <p>But you and only you can decide whether in 1953, on a cold, dark rainy day, just like today, the cigarette industry linked arms, joined together on a campaign of deceit and dishonesty in order to promote the sale of cigarettes. Those are their words, not mine; as I will show you. Their words, not mine.</p> <p>3/17/98 Tr. at 9224; <i>see also id.</i> at 9225, 9239-49, 9366-73, 9419-22.</p>				<p>You're going to hear from other scientists who worked with the cigarette companies about documents being destroyed, about documents being buried, about people speaking in codes.</p> <p>2/10/98 Tr. at 434; <i>see also id.</i> at 420, 422-23, 35.</p> <p>These are the defendants' own private confessions from the documents you've got. Show it, please. Dead wood files, shipped to Cologne, act on them and destroy, bury the evidence, destroy the data, we're afraid of discovery, we don't want this out in the open, filtered by lawyers, subjects to be avoided, concerted action, duped, maintain controversy, false and misleading, propaganda, smear and belittle, what is truth to</p>	<p>2/10/98 Tr. at 463; <i>see also id.</i> at 415-20.</p> <p>Environmental tobacco smoke. They came up here one after another, just like mainstream smoking, we don't believe environmental tobacco smoke causes lung cancer. Yes, we agree you could stack up all the government agencies who have studied it, et cetera, all the independent groups, and say, yes, but we don't agree, because of that animal testing stuff again. And plus we've got a body of evidence we want to tell you folks about, they came in and said. Where did that body of evidence come from? Remember the 16-City study? I'll tell you where it came from. It came out of the lawyer's conception.</p> <p>3/17/98 Tr. at 9372; <i>see also id.</i> at 9371-75.</p>

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					one is false to another, enemies, cancer promoting, poisonous, toxic. These all come from their own documents. 3/17/98 Tr. at 9250; <i>see also id.</i> at 9233, 9358-59, 9362, 9365, 9371-73, 9422.	
<p>Rogers v. R.J. Reynolds Tobacco Co., No. 87-2106 (Ind. Cir. Ct.)</p> <p>Disposition:</p> <p>Defense verdict for PM USA on strict liability and comparative fault claims (verdict - 8/23/96).</p> <p>Excerpts from the record in <i>Rogers</i> that are cited in this chart are attached as Exhibit 32.</p>	<p>Defendants by their persistent advertising, and/or their public pronouncements and comments criticizing the surgeon general's reports and the medical literature implicating tobacco as a cause of cancer and/or otherwise misrepresented material facts concerning the character or quality of their cigarettes.</p> <p>Amended Complaint for Damages ("ACD") at Count IV ¶ 6; <i>see also id.</i> Count VI ¶ 11.</p> <p>And then prior to 1970, when the</p>	<p>In some persons, cigarettes are addictive with nicotine playing an important part in acting through specialized cell formations located in the human brain and muscle tissues, reinforcing and strengthening the desire to smoke and causing users to keep on smoking. While Richard Rogers was a user of Defendants' products, said Defendants failed to disclose to Richard Rogers material information which the Defendants knew or should have known. Such conduct by the</p>				

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	<p>warnings that they were required by Congress to give were implemented, they never advised any smoker that their product was addictive or dependence producing or that it caused cancer. 8/7/96 Tr. at 442.</p> <p>Does the product cause cancer as we say it does? The defendants deny it does. In this courtroom in the year 1996 the defendants deny that cigarettes cause lung cancer. And you're going to have to decide is that true. Well, the evidence is overwhelming. Both Dr. Burns and Dr. Jay told you there's no question, absolutely no question about that. 8/22/96 Tr. at 2473; <i>see also id.</i> at 2485, 2488-90, 2492, 2495.</p>	<p>Defendants constitutes a constructive fraud and/or fraudulent concealment. ACD Count VII ¶ 7-9.</p> <p>He was never warned by them that their product was defective because it can addict or because it can cause them to become dependent. 8/7/96 Tr. at 441.</p> <p>The second thing, does cigarette smoking cause addiction. And there is really no evidence to the contrary. Dr. Jay and Dr. Burns both testified there's simply no respected authority to the contrary. They deny it. And I'm going to come back to that later, because I think that's very important, in the courtroom in the year 1996 they're denying that their product</p>				

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		causes lung cancer or causes addiction. 8/22/96 Tr. at 2473; see <i>also id.</i> at 2476, 2508, 2595.				
<i>Cipollone v. Liggett Group, Inc.</i> , No. 83-2864 (D.N.J.) Disposition: Defense verdict for Philip Morris USA and Lorillard on all claims, and defense verdict for Liggett on only conspiracy and fraudulent misrepresentation claims (verdict - 6/15/88). Plaintiff's verdict against Liggett on one count of breach of express warranty (reversed on appeal in <i>Cipollone v. Liggett Group, Inc.</i> , 893 F.2d 541 (3d Cir. 1990)). Excerpts from the record in <i>Cipollone</i> that are cited in this	The defendants were or should have been at all times relevant hereto, in possession of medical and scientific data which indicated that the use of its cigarettes were hazardous to the health of consumers, but, prompted by pecuniary motives, the defendants, . . . ignored and failed to act upon said medical and scientific data . . . Third Am. Compl. ("TAC") Count VII ¶ 2. People who study chemistry find out what is in substances, and they started to look at what was in cigarette smoke. What was in the product that might be causing	The cigarettes manufactured and sold by defendants were defective as a result of the cigarettes causing addiction and dependency and therefore rendering any warning meaningless. TAC Count IX ¶ 2. In fact, the research department at Philip Morris, through the confidential documents, will show you that nicotine is a powerful pharmacologic agent, powerful drug with multi sites of action may be the most important component of cigarette smoke. 2/1/88 Tr. at 584; see <i>also id.</i> at 581-83, 587.		Cigarette commercials continue to appeal to youth and continue to blot out any consciousness of the health hazards . . . Today teenagers are exposed to a barrage of cigarette messages that cigarette smoking increases popularity, makes one more masculine and attractive to the opposite sex, et cetera. 6/6/88 Tr. at 2540-41.	This case is about an industry that worse than not warning, worse than not testing, went ahead and suppressed important information, suppressed information that would have helped scientists, medical doctors, that would have provided information so that Rose Cipollone, like everybody else, could expect to make a free choice. 2/1/88 Tr. at 536; see <i>also id.</i> at 552, 554, 567-69, 586, 595-96. Well, Dr. Kensler, I am sure, did not expect in 1963 when he had a discussion with Dr. Hamill, who was working for the Surgeon General's	

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chart are attached as Exhibit 33.	<p>cancer. You know what they found? They found carcinogens. Carcinogens are nothing more than things that cause cancer. Tobacco companies knew about it back in this period of time, but they chose not to do a stitch of research.</p> <p>2/1/88 Tr. at 548-49; <i>see also id.</i> at 550-51, 557-58, 561-63, 567, 588, 595-96.</p> <p>The evidence shows that . . . defendants conducted no research on lung cancer, heart disease, dependence, emphysema, and then after 1954, the only research they conducted was for public relation purposes, litigation purposes, political purposes, and for competitive advantage in the marketplace, not for the welfare of their</p>	<p>When they are getting close to showing that cigarette smoking, in fact, results in dependence, they don't continue any further, because they don't want to have to be in a position just like before, they would rather remain ignorant. That way if you are ignorant, you don't know all the facts, don't have to publish or warn about it.</p> <p>6/6/88 Tr. at 12546; <i>see also id.</i> at 12667, 12669.</p>			<p>Advisory Committee at the time, that when he said Kensler couldn't speak for all the tobacco companies, but he did say that Liggett & Myers had not published a lot of material which was scientifically worth publishing because of the possibility that some of this material could be used in a lawsuit against them more persuasively if released under their own aegis. That is the reason they didn't publish it, because they were afraid somebody would be able to use it against them, that it would be an admission by them that their product caused cancer, but he never expected this thing to surface. He didn't expect someone would go down to the National Archives and go through the thousands and</p>	

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	<p>consumers. The evidence showed you in this case that not only did they fail to warn, not only did they fail to test and research, but they entered into a sophisticated public relations program to mislead consumers and distort the facts. And, in addition, they participated in advertising, intended to mislead consumers about the health hazards of cigarette smoking.</p> <p>6/6/88 Tr. at 12457; <i>see also id.</i> at 12468, 12474, 12488, 12493, 12503-06, 12509-10, 12513, 12562, 12564-66, 12662, 12669.</p>				<p>thousands and thousands of pages and find that document.</p> <p>6/6/88 Tr. at 12474-75; <i>see also id.</i> at 12477-78, 12481, 12498, 12523.</p>	